DOCUMENTS ON KASHMIR PROBLEM

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DOCUMENTS ON KASHMIR PROBLEM

World Opinion

Edited by
M. S. Deora
R. Grover

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SECURITY COUNCIL MEETING

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Introduction

The history and culture of Jammu and Kashmir were part of the pan-Indian civilization. It was partly due to geography, the Himalayas and the Western and Eastern ranges separating it from rest of the world, and partly due to the Brahmanical culture, with Sanskrit as the lingua franca, which gave it a unity in the eyes of the upper strata of society. From centuries, Kashmir remained free from racism, communalism and casteism even during the communal structure of Dogra Raj. The National Movement against the feudal exploitation, led by Sheikh Abdullah, which was started in 1930 and continued upto 1947, was the result of the growth of National consciousness in Jammu and Kashmir. Various national leaders of India, including Pandit Jawaharlal Nehru and Maulana Abdul Kalam Azad recognized the democratic and nationalist spirit of this struggle. But British imperialists and the Hindu press tried to interpret and project it as a "result of the dispute between the Hindus and the Muslims". Inspites, this antifeudal movement was participated by a broad section of peasants and artisans came out to fight in the streets. This insurgency, of 1931 awakened the national aspirations of the Kashmiris, which ultimately helped in the emergence of a composite Kashmiri culture without any emphasis on Muslim sectarianism. By 1939, every conscious member of Hindu, Muslim and Sikh community joined the national movement. The anti-feudal and anti-imperialist struggle reached another high pitch in 1946. The AJKNC launched the "Quit Kashmir" movement and

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submitted a memorandum to the Cabinet Mission of 1946 demanding absolute right to freedom from the autocratic rule of the Dogra house. The movement was to counter the threat of Muslim communalism that was spread in the wake of Pakistan movement of Muslim League. It also salvaged the tradition of secular nationalism in Kashmir. Launching this struggle for a decisive victory, Sheikh Abdullah, on 15 May 1946, reiterated at Srinagar that "the demand that the princely order should quit the state is a logical extension of the policy of "Quit India." When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people. . .the rulers of Indian states have always played traitor to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the treaty of Amritsar and quit Kashmir. Sovereignty is not the birth right of Maharaja Hari Singh. Quit Kashmir is not a question of revolt. It is a matter of right." The Sheikh was arrested on the charge of sedition against the Maharaja. Following his arrest whole valley rose in an uprising. On 19 June 1946 Pandit Jawaharlal Nehru, Aruna Asaf Ali, Dewan Chaman Lal and Tilak Raj Chadha went to Srinagar to defend Sheikh Abdullah at his trial but were arrested by the Maharaja's administration. On his return to Delhi, Nehru complained to Gandhiji and Maulana Azad, the Congress president that people in Kashmir were grooning under the reign of terror. Mahatma Gandhi visited Kashmir in August 1974 as a guest of National Conference.

The 'Quit Kashmir' movement kept the Muslim comunalism in Kashmir at bay. Immediately after independence and the creation of Pakistan Jinnah decided to wrest Kashmir by force and sent raiders for this purpose. The Maharaja of Kashmir was fled. Jawaharlal Nehru decided to send troops to rescue Kashmir on the request of the Maharaja on 24 October 1947. It was done after Kashmir had legally acceeded to India. On 26 October 1947 Sheikh Abdullah also formed a peace brigade

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and the peoples' militia to defeat the aggression of Pakistan in the valley of Kashmir. Sheikh Abdullah, the doyan of nationalism, succeeded in restoring Hindu-Muslim harmony in the valley when the rest of India was burning by communal holocast. There was a good rapport between Sheikh Abdullah, Mahatma Gandhi and Pandit Jawaharlal Nehru. Congress demanded the release of Sheikh Abdullah and the establishment of popular government in Jammu and Kashmir. National Conference favoured accession of India without instrument of accession.

The Pakistan reacted sharply and contested the validity of the accession. India took the Kashmir question to the Security Council of the United Nations on 1 January 1948 (S/628). Pakistan made counter complaint (S/646) but admitted that some tribesmen from Pakistan might be helping the "Azad Kashmir government." After debate the Security Council passed to resolution (S/651 and S/654). It appointed a three member Commission to investigate and mediate in the matter. On 13 August 1948 the UNCIP submitted a report to the Council in three parts (S/1100 ; S/1196, and S/1430). Part first of the report contained provisions for a cease fire. Part two dealt with a truce agreement, and Part third with the holding of a plebiscite after the implementation of first two parts. India agreed but Pakistan did not. Later on both countries accepted the proposal submitted by the UNCIP to the Security Council on 6 January 1949 dealing with the plebiscite. The ceasefire came into effect by 1 January 1949 and a ceasefire line was agreed upon in July 1949. But a truce agreement could not be finalised due to opposite stands of both the countries.

The security Council then appointed mediators. In 1949 General McNaughton of Canada was appointed as a mediator who's proposal was rejected by India. Sir Owen Dixon of Australia also could not succeed because he proposed the partition of Kashmir between both the countries rather than a plebiscite (S/1791). Frank P. Graham of the USA was the third mediator appointed in April 1951 also met with the same fate,

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however, he suggested a direct negotiation between India and Pakistan. He submitted five reports S/2375, S/2448, S/2611 S/2783 and S/2967.

In July August 1953 and in May 1955 the Prime Minister of both India and Pakistan started negotiated settlement which ultimately failed. After a gap of five years the Pakistan Foreign Minister F.K. Noon raised the Kashmir issue in the UN Security Council and call upon India to refrain from accepting and change in the new Constitution of Kashmir—the State of Jammu and Kashmir is and shall be an integral part of the Union of India—and to accept a plebiscite (SCOR, 12th Yr., Mtg. 761). Mr. V.K. Krishna Menon, the Indian representative informed the Council that the conditions for holding a plebiscite changed in Kashmir. (SCOR, 12th Yr. Mtgs. 762, 723 and 794). The Security Council favoured plebiscite by adopting a resolution (S/3739) on 24 January 1957. On 21 February 1957 President Gunnar Jarring of Sweden was asked to act as mediator but India refused to accept him for the implementation of the UNCIP resolution, (S/2821).

Meanwhile, the National Conference demanded special status and autonomy for Kashmir in the political—constitutional framework of Indian political system. Article 370 of the Indian Constitution granted Kashmir a special position. It produced hostile backlash among the Hindi-Hindu fanatics including Sardar Patel and Hindu lobby which demanded conformity of minority to Hindu majority views as well as uniformity by force. In Kashmir this Hindu lobby started non-co-operation movement against the government led by Sheikh. It was supported by the Jana Sangh, the Hindu Mahasabha, the RSS and even by the Akali Leader Master Tara Singh and Mr. S.P. Mookerjee. They criticised Nehru's appeasement policy towards Kashmir. Mr. Moorkerjee called this policy as "national liability". This non-co-operation was also supported by Jayaprkash Narayan and Acharya Kirpalani. This fanning of the flame of Hindu communalism—especially, in Delhi, Uttar Pradesh and Punjab—resulted in the ambivalence

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in Sheikh's position about accession to India. Nehru succumbed before these reactionary elements ultimetely. Sheikh Abdullah now came to the conclusion "that there was no middle course between full integration and full autonomy, and as the majority in Kashmir would not accept the first alternative, there was no choice but to accept the second."

Finally on midnight of 8-9 August 1953, the popularly elected leader of Kashmir was dismissed and imprisoned in a most undemocratic and uncermonious fashion by violating the special provisions made in the Article 370 of the Constitution.

On 2 December 1957 Security Council passed a resolution S/3922 after considering the Jarring report and directed P. Graham to make recommendations (S/3984) to the parties for facilitating a peaceful settlement and for the implementation of the resolution of the UNCIP of 13 August 1948 and 5 January 1949. The Graham report was rejected by India.

During Ayub Khan's regime Nehru-Ayub talks commenced in 1959 and 1960. On 6 October 1960 President Ayub Khan gave a threat of Military settlement of the Kashmir Problems. Threats and counter threats continued till Chinese aggression on India in October 1962. Besides Pakistani slogan of *Jehad* President Ayub Khan put pressure on USA to exercise its influence for the settlement of the Kashmir issue. The matter was again raised in the Security Council on 1 February 1962 by Pakistan Permanent Representative Zafrullah Khan who asked the Council to take up the consideration of the dispute and to secure to the Kashmiri people their right of self-determination (SCOR: 17 Yr. Mtgs. 990). In the subsequent meeting of the Security Council (Mtgs. 1007 to 1016) Mr. Zafrullah Khan put forward his asguments in support of Pakistan's claim over Kashmir Mr. C. S. Jha, India's permanent representative to the UN and Defence Minister Krishna Menon contested the Pakistani contentions (SCOR, Mtg. nos. 1009, 1011 and 1016) and supported by the U.S. representative and Indian position by the Soviet and Rumanian representatives. US and British

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representatives on 27 April 1962 tried to persuade the UN Secretary General U Thant for negotiating settlement. The issue was again raised by Mr. Plimpton, US representative, on 21 June 1962 and on 22 June 1962 when he succeeded in pursuading the Irish representative to introduce draft resoution which was vetoed out by the Soviet Union (SCOR, 17 Yr. Mtg. 1016) Prime Minister Jawaharlal Nehru expressed deep concern over the attitude of Great Powers—the U.S.A. and the U.K. After the Chinese invasion on India both Nehru and Ayub agreed for negotiated settlement. Six round of Bhutto—Swaran Singh talks were held between 27 December 1962 to 16 May 1963. The talks failed on the question of distribution of areas.

The disturbances in Kashmir on the disappearance of the hair of prophet Mohammad from the Hazaratbal shrine on the night of 26-27 December 1963 gave opportunity to Pakistan to raise Kashmir question in the Security Council. Though the hair was recovered, Pakistan's Minister of External Affairs, Z.A. Bhutto sent a letter to the Security Council for an urgent meeting (S/5516) to debate on grave situation of the State. Mr. Bhutto asked for a "move towards an honourable and joint solution" of the problem in Security Council's meetings held between 7 February to 11 May 1964 (Mtgs. Nos. 1087, 1089, 1104, 1112 and 1114). Refuting the charges Mr. M.C. Chagla and Mr. B.N. Chakraverti described the incident as "purely a domestic matter". (Mtgs. nos. 1088, 1104, 1113 and 1115). Though Mr. Roger Seydoux, President of the Council submitted his statement on 18 May 1964 but nothing tangible came out of the debate (SCOR, Mtg. no. 117).

The Indian government released Sheikh Abdullah on 8 April 1964 withdrawing all charges against him. He was sent to Pakistan to resolve the issue but sudden death of Nehru on 27 May 1964 dashed all hopes. Ayub-Shastri meeting on 12 October 1964 at Karachi and J.P. Narayan's visit to Pakistan brought no change in the attitude of both the countries. Meanwhile Sheikh Abdullah was again arrested on 8 May 1965

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on charge anti-India propaganda. Sino-Pak unison persuaded Pakistan to send armed infiltration into the valley from 6 August 1965. India reacted against this attack specially in the Chhamb. The war was stopped on 22 September. Tashkent Declarations, signed on 10 January 1966 restored the *status quo* in Jammu and Kashmir as it was existed before the 5 August 1965. The Pakistan Foreign Secretary Aziz Ahmed and later on 14 January 1966 President Ayub Khan declared that peace could not be achieved unless the dispute over Jammu and Kashmir was settled honourably and equitably. Bhutto also blamed India for creation of the problem. Talking to the British Prime Minister Harold Wilson on 23 November 1966, Pakistani President Ayub Khan said that people of Kashmir "did not like Indian rule" and added that India did not honour the commitment under the Tashkent Declaration. Not only this while speaking before the UN General Assembly meeting on 29 September 1966 Pakistan Foreign Minister, Sharifuddin Pirzada accused India for not honouring the UNCIP resolution of 13 August 1948 and 5 January 1949 about holding of a free and impartial plebiscite (GAOR, Pen. Mtg. 1423). He also tried to raise this issue in the Commonwealth Prime Minister' meeting held in London on 13 September 1966. He charged the Indian government with reluctance to allow the Kashmiri people to exercise the right of self determination. Even Prime Minister Mrs. Indira Gandhi gave a statement in Lok Sabha that "India is not obliged by the Tashkent Declaration to settle the Kashmir dispute with Pakistan". Pakistan government started anti-India propaganda. Ayub Khan described Indian army as "special danger to Pakistan". He stressed on the solution of the Kashmir problem. On 10 October 1967 Pakistani Foreign Minister Mr. S. Pirzada raised a question in the UN General Assembly meeting (GAOR. Plu. Mt. 1584) and demanded "self-determination" for the people of Kashmir to which India was committed. Similar demands were made by Arshad Hussain, the new foreign minister of Pakistan in the UN General Assembly meeting (GAOR. Pl. Mtg. 1982) and Pakistan's National Affairs Minister Nawabzada Muhammad Sher Ali Khan, (GAOR Plan. Mtg. 1775) on October 2, 1969.

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Pakistani Home Minister Sardar Hamid accused India for avoiding discussions in the United Nations (GAOR, Pln. Mtg. 1853) on 29 September 1970. Weanwhile, Pakistani press, specially *Pakistan Times* and *Dawn* made vehement propaganda against India. "That India is suppressing freedom of the press in occupied Kashmir and adopting ruthless measures in curbing the students and youth" Kashmiris are treated as second class citizens. Pakistan supported the terrorists in Kashmir.

A hand grenade was thrown on the Kashmir Chief Minister, G.M. Sadiq on 16 May 1966. Terrorists confessed that they were imparted training by Pakistani officers. The subversive activities of the Pakistani infilterators continued till date. The cease fire violations took place frequently. Both India and Pakistan accused each other for violation of cease-fire agreement. In short Kashmir remained full disturbed between 1966 and 1969.

Pakistan protested strongly against India's measures to extend the application of Indian laws to Kashmir and described these contrary to the UNCIP and other resolutions of the United Nations. These bills, according to Pakistan, would give sweeping powers to the Indian Government to outlaw any organisation or any individual found guilty of questioning the India's sovereignty over any of the territories.

On 11 January 1968 Prime Minister Mrs. Indira Gandhi and Deputy Prime Minister, Morarji Desai desired to normalise relations with Pakistan by implementation of Tashkent Agreement but Pakistan did not respond favourably. Pakistan was insisting on "meaningful discussions on Kashmir". India's appeal to Pakistan for non-war pact' was turned down by Ayub Khan who discribed this proposal as "misleading" unless Kashmir dispute was solved. During the time Sheikh Abdullah and Mirza Afzal Beg were released from Jail on 3 January 1968. They demanded self determination for the Kashmiris. The hostile and anti-India attitude of Sheikh Abdullah put India in embrassing situation.

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General A.M. Yahya Khan who assumed the charge from President Ayub Khan on 25 March 1969 showed his willingness for some time to establish a peaceful atmosphere between the two countries. Mrs. Indira Gandhi sent a personal letter to Mr. Khan on 22 June 1969 and suggested to revive the no-war pact proposal and a joint machinery to examine comprehensively all aspects of normalisation of relation. General Yahya Khan accepted the proposal with provision that the machinary of Indio-Pakistani body should discuss all issues including Kashmir and Farakka barrage. But after the exchange of letters between the two governments, no follow-up actions could be taken up by either of the governments. Instead President Yahya Khan banned all the exchange of printed materials between India and Pakistan, commercial, economic and cultural relations were completely cut off. Tashkent agreement, though Mrs. Indira Gandhi wanted to implement, went unsung and unheard. On 28 July 1970 President Yahya Khan again asked for amicable solution for Kashmir problem to establish cordial relations between both the countries.

Mr. Z.A. Bhutto advocated for quasi-military approch for the solution. Ashohar Khan recommended Algeria type struggle for Kashmir liberation. General Yahya Khan raised Kashmir's issue in UN General Assembly in October 1970 and demanded 'self determination' and withdrawal of forces of the two countries. India rejected the proposal and told that the State's accession to India in 1949 was complete. However, India favoured bilateral talks under Tashkent spirit. Mr. Z.A. Bhutto exploited the situation by raising war bogy against India. He formed Pakistan People's Party on 1 December 1967. December 1970 polls in Pakistan brought conflict between East and West Pakistan, ultimately resulted into the creation of Bangladesh. India-Pakistan relations were further deteriorated when on 30 January 1971 an Indian Airlines plane was hijacked to Lahore with Pakistani connivance and was allowed to be blown up at the Lahore airport. Hijackers were granted asylum and were given hero's welcome there. India banned all Pak flights over the Indian territory. After India-Pakistan war of

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1971 both Mrs. Indira Gandhi and Mr. Z.A. Bhutto on 2 July 1972 concluded an agreement at Simla. It was promised to respect line of control resulting from the cease-fire of December 17, 1971 in Jammu and Kashmir. They also decided to settle the Kashmir issue by mutual talks. Fresident Zia-ul-Haq, Prime Minister Benazir Bhutto, Rajiv Gandhi, V.P. Singh and Sheikh Abdullah came and went but the Kashmir remained unsolved.

Documents on Kashmir Problem is an excellent attempt of authentic and comprehensive compilation of published documents and other literature on the subject—Kashmir dispute. It presents the text of important documents including publications of the Government of India and Pakistan, United Nations official documents, treatments, treaties, agreements, proposals, debates—both in UN Security Council, General Assembly—and Parliamentary debates—reports and recommendations, letters, telegrammes etc. The publication would help the research scholars, academicians, educationists, politicians as well as curious laymen in understanding the issue. Compilers have made an honest attempt to be objective and impartial in compiling, editing and presenting the documents, to prove their authenticity the sources of documents are also added.

We express our deep sense of indebtedness to the library staff of Indian Council of World Affairs Library, New Delhi, Nehru Memorial Museum Library, New Delhi, United Nations Information Centre, New Delhi, Jawahar Lal Nehru University Library, New Delhi, and Ministry of External Affairs Library New Delhi for the help rendered to us during our visits there.

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1. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 235 held on 24 January, 1948

We have heard statements from the two parties in this case. Much has been inscribed in the record of the Security Council which, if history itself could be rewritten, both parties would desire to expunge. Having heard the parties, I want, with equal understanding, with equal friendship, and, if they will allow me to say so, with equal love for both, as a member of the Security Council, sharing our collective responsibility to mankind, to ask the question : What ought the Security Council now to do ? I hope we shall fasten our attention on the constructive parts of what our colleagues from India and Pakistan have said.

I am not suggesting that we can brush aside the rest of their statements, or that in seeking a solution we can neglect the causes from which the present conflict came. On the contrary, we must make provision concerning those causes in all that we propose. But we must try to put what we have heard in its true perspective, and then to see whether it is worth going on, what hope we have that a full and fair settlement can now be made.

It is my profound conviction that both Governments really want to reach a settlement, and that, therefore, a fair adjustment can be made. The representative of Pakistan last week and again today, and the representative of India when he opened the matter and again yesterday, gave us their accounts of how the communal troubles happened over the last two years. I do not intend to discuss the tragic features to which they drew attention. To my mind the process of causation is still wrapped in mystery. No doubt these troubles came out of history, and I hope they will soon disappear into

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history again. The interest of everyone is to forget the past and to concentrate on the future.

I do not minimize the terrible events that have occurred, the loss of life or the suffering of the refugees. Nevertheless, it is true, and is no accident, that 95 per cent of the Sub-Continent was unaffected, and that, even where disorders took place, there were great and successful efforts by both Governments to get them under control. Communal passions had been inflamed in the Punjab and in Delhi, and mob violence broke loose, mob violence with unlimited ammunition and automatic weapons. At moments it appeared that the whole fabric of government might break down and the rule of law collapse. The events in Delhi were only the most dangerous example of what happened elsewhere, but the two Governments brought things under control and, in so doing, their leaders displayed great physical and moral courage. Day after day in Delhi Pandit Nehru risked his life to stop the troubles and to save the Muslims. The Prime Ministers of India and of Pakistan went out together. The conducted joint campaigns and made joint appeals, and I think that both Governments showed great statesmanship and resolution of no ordinary kind. In the end they succeeded in getting their armies, and then their police, to do their duty. They punished those who attacked the trains and convoys, they re-established discipline and law, and restored the convoys and camps to reasonable order. By far the most important, they began to exercise the satanic passions aroused by fear, and to revive the spirit so truly characteristic of India and Pakistan : the spirit of human charity, mutual help and the protection of the sufferers on either side.

I remember with what infinite relief, sitting in my office in London, I received the first telegrams which told us that the spirit of charity had begun once more to revive. The two Governments did this by co-operation. They resolved to stop the killings, and they determined to prevent their troubles leading on to war. They found that the troubles had caused a mass movement of refugees. As the representative of Pakistan has said today, 10 million people displaced from their

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homes constitute a vast mass of human suffering. I know the kind of difficulties it creates; I worked for Nansen after the last war in the exchange of population between Greece and Turkey, and helped to resettle 2 million refugees, I followed their movement, their settlement and the results over many years. The problems are innumerable and infinitely complex. They have not been solved in India and Pakistan, but I say, knowing something about it, that those in charge—and the leader of the Indian delegation is the Minister responsible for that work—have already achieved quite remarkable results.

I am referring to the protection of the crops and the resettlement of the refugees in productive work. It is only a beginning, but it is a good beginning. In 95 per cent of the Sub-Continent, troubles did not occur at points of danger where grave incidents had happened before. By wise statesmanship and vigorous action, they were held in check At the time of the greatest crisis, when the wave of communal strife was sweeping forward, the two Governments worked together until, after grave disasters, they brought the madness under control. Therefore, that was a great achievement.

It is not the only one. They have reached agreement on other problems which were caused by partition, such as the financial settlement. This does not concern only the division of the cash balances. There are many other matters of great complexity, and of vital economic importance to both countries on which the interests of the two Governments might seem to be diametrically opposed and for which an arbitral tribunal had been set up. As to the division of military stores, there were difficulties which were caused partly by transport. I was a member of our Ministry of Transport during the war, and I know the difficulties involved in the transport of military stores. According to the last messages which I received, those difficulties had been overcome.

Therefore, I think that, if we view these events in their true perspective, we must admit that although both Governments, like human beings, made mistakes, and some people on both sides preached dangerous ideas, the evidence discloses that it was not the Governments which were to blame. The two Governments faced more disagreements than any other

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two new Governments had ever faced before in trying to establish their States and administration. The evidence further discloses that after long weeks, when difficulties threatened to overwhelm these two Governments, they mastered those problems and came very close to full agreement and co-operation on every question.

About six weeks ago I reported to my cabinet colleagues that the situation had improved enormously, that Kashmir was the chief outstanding issue, and that, in the spirit of the situation as it then existed, I had reason to believe that the Governments wanted to settle and would settle their problems. I still believe that they can. That is the first lesson which I have learned from the history of the last few months.

The second lesson, which is the obverse of what I have said, is that, in spite of their efforts to work together, the Kashmir business brought these Governments very close to war. Three weeks age, when this appeal was made, both Governments thought that at any moment war might begin. As long as the present fighting in Kashmir continues, then, as the Indian representative stated yesterday afternoon, there is a danger that the area of conflict will be enlarged and that almost by "accident", to use his word, the parties may drift into war.

The third lesson to be learned from the last few months is that, if war happens, it may be the most terrible conflict in the history of mankind. I ask the parties and the Security Council to consider what this conflict would mean to the armies, the officers and the men who participate in it. Six months ago there was a single Army with a century of comradeship-in-arms behind it. In this last war, its men had a superb record of achievements in every theatre and in every battle against the Nazis. At their farewell gatherings, when the Army was being divided, they wept over the separation.

What would such a conflict mean to the peoples there? It would mean that communal strife would begin again. There are almost 40 million Muslims in India, and many non-Muslims on the other side. There would be no armies to help check the troubles. They would be locked in battle at the

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front. The tribesmen might come down not in tens, but in hundreds of thousands. They might be a mortal danger to both Governments. The imagination is baffled at what might happen. A sub-continental war would be an unbelievable character for the new Asia on which such hopes of progress are now pinned. It would be a disaster no less grave for all of us. It would retard our post-war reconstruction. For the United Nations, it would be a bitter defeat.

I ask the delegations for what reason would this war be fought? What is really at stake today in Jammu and Kashmir? What is it that the two Governments care about? What are they seeking to promote? It is not territorial aggrandizement; it is not the addition of population; it is not new sources of wealth for exploitation; it is not the false glory of victory by arms; it is not the old pernicious mirage of national prestige. Those are all discredited nineteenth century imperialistic ideas. The stake in Kashmir, what both Governments want, is the happiness, the peace and the prosperity of their people—Muslim and non-Muslim alike. They want their people to live, to worship and to be governed as they desire. How could that purpose justify a war? How could war promote that purpose?

Kashmir has a population of 4 millions. They are now suffering the anguish and destruction which fighting always brings. If the conflict spreads and continues, it will take a generation for them to recover. Kashmir has a population of 4 millions. From our office in the Empire State Building we look out over the homes of over twice that number. Four millions are a lot of people, but they are 1 per cent of the population of the Sub-Continent. They will need a generation to recover if war occurs. What about the other 99 per cent of the population? They will suffer the ruin I have described.

I have here with me to act as advisors two great military men, Lord Ismay, who was on Mr. Churchill's staff during the war, and General Schemes, who commanded in Burma in our desperate campaign. They tell me that in their view, after studying military history, wars very rarely produce the results for which they were begun. In this case war would destroy the purpose of the Governments altogether.

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The alternative to war is agreement in the Security Council. Both parties have told us they want peace with justice. Both have told us they want the will of the people of Kashmir to prevail. The representative of India stated this yesterday, and the representative of Pakistan stated it today. Our task is to formulate a plan by which that can be done. Let us press forward with that work.

As from today, let the President of the Security Council confer with the parties, and let them be a drafting committee of the Security Council. Let them go forward from the preliminary agreements which the President recorded in his report the other day. Let them bring us a plan in outline, if it may be, by Monday next. It is only by agreement that the Governments can avert common dangers which threaten them both. It is to their overwhelming material interest to agree. To the peoples of India and Pakistan, with their age-old cultures, their philosophy and their spiritual power, it is much more than a material interest that is at stake.

A distinguished leader in their struggle for independence said a year or two ago : "We in the Sub-Continent have to live together. Let us live in brotherhood and peace. If we do not so live, nature will make us suffer, and after great sufferings we will have to reconcile ourselves to the fact that those whom God united nobody can separate. Any Hindu who offends a Muslim is doing injustice to his own community and country, and any Muslim who offends a Hindu is destroying his religion and the freedom his country."

The great prophet, Mahatma Gandhi, who has just rendered such supreme service not only to India and Pakistan but also, I think, to all mankind, built the independence movement on the principle of non-violence against the British. I refuse to belive that the free Governments of India and Pakistan cannot apply that principle to their own relations. I am convinced that the statesmanship which brought this matter to the Security Council will bring the Security Council to success.

No doubt, to reach agreement, both sides must make concessions, but in the Security Council parties make concessions not to each other but to mankind. In the Security

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Council all of us have one overwhelming interest : that truth and justice shall prevail.

2. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 235 held on 24 January, 1948

I intend to make only a few brief remarks. The presentation of the claims on both sides permits of only one decision which, it seems to me, prescribes a course for the Securty Council. Even without finding the facts, we clearly see a situation which urgently requires the application of all the pacific powers of the Security Council. I have listened intently to the claims of both sides, and never in the history of the United Nations have I been so grateful that the United Nations exists and is here to receive the presentations that have been so ably made on both sides of this question.

The Security Council has not yet been called upon to make a decision with respect to guilt or with respect to what the actual facts are in detail, but we already have enough information to arouse the ethical sense of the United Nations to full and complete action, and we should do everything we can, as a world Organization whose aim is to abolish war and to establish conditions in which peace will prevail, to help and guide these people who are, beneath all their troubles, brothers and friends, and who are true lovers of Peace seeking our guidance. They would not be here unless they expected a great effort from us to help them. Of course, this calls for mutual consideration, mutual sacrifice, and mutual endevour, which the parties here have shown most nobly in what they have achieved so far. The fact that they have already made an agreement and have asked the Security Council to put it into effect through a resolution [*230th meeting*] is progress for which they are entitled to great praise.

Another point which I want to have in the record is a recognition of the very important fact that when India accepted the accession of Kashmir, it made its act stand for a

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great principle by stating as a part of the acceptance, that it was conditional on fair plebiscite being held to determine the will of the people of Kashmir with respect to accession. I think an example was made in history at that point.

Now comes Pakistan, which agrees to and stands for exactly the same doctrine. So we are blessed, as it were in this tremendously difficult situation, by having the two parties which have that vision as to the possibilities of a solution that would really settle their troubles. This is a situation, however complex and difficult it may be, that is filled with hope.

It seems to me, in determining whether there is a situation which, if it were to continue, might lead to a dispute or to war, that we have before us an opportunity to make progress in the right direction, through the continuation of the entirely friendly and informal conferences under the guidance of the President of the Security Council. My country thinks that these conferences should be continued in the real spirit that animates India and Pakistan here, and that they should not be interfered with by the necessary presentation of charges, counter-charges, claims and so on that have to go into the record.

We should like to suggest to the two parties that under the guidance of the President of the Security Council, they should try to reach agreement on those issues—and they relate to political issues as well as to the military issues—that were presented by the first petition [*document S/628*].

We now have a counter-petition [*document S/646*]. The whole matter is before us.

It is the Kashmir matter on which all these other questions will depend. It seems to me that our advice to the two parties should be—and that is what they are asking for when they come here—that they proceed with the Kashmir matter, without prejudice to the other question; complete the negotiations that are now pending; and, with respect to the media and methods of creating those conditions in which a fair plebiscite can be held, arrange an interim government that is recognized as free from the smell of brimstone, as nearly impartial and perfect as two great countries like India and Pakistan can make it, in which the rest of the world will have confidence as being fair.

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It will not be difficult. If one comes to the conference table with the spirit of agreement, one will find many ways of carrying out this spirit. Of course, the agreement should be such as would invite the return of *emigres* to their homes. It should be such an interim arrangement as would open up the ballot boxes to everybody with the utmost freedom, and without any restraint except the restraint of maintenance of order under the law.

Freedom in the exercise of the franchise is what I understood India to refer to when that country made it a condition precedent to the final accession of Kashmir to any other country; namely, that a plebiscite should be held. That was a part of the *res gestae* for India.

I wish to ask something else. My thoughts are not mature enough to submit a proposition. I am not making a motion, but I ask if it is not worthwhile for the parties involved, in their search for peace and for a real, true settlement of a very complex situation, to conduct all these proceedings—the plebiscite especially—under the aegis' of the Security Council. In asking that question, I do not mean to imply that the Security Council should be sent over there. The Security Council can remain here and perform its duty. In addition, it can supervise this interim situation so as to guarantee a free and clear opportunity to the people of Jammu and Kashmir to record their will with respect to accession and other questions, as there will soon come the question of a permanent Government also.

3. Text of the Speech made by General McNaughton (Canada) in the Security Council Meeting No. 235 held on 24 January, 1948

I speak at this time only to associate myself with the expressions of hope voiced by the representatives of the United Kingdom and of the United States that the discussions between the representative of India and Pakistan, under the auspices of the President of the Security Council, will continue so that a basis of agreement may be reached to terminate the

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fighting; to afford security to the peoples of Jammu and Kashmir under some authority which will be recognized by everyone concerned as strictly impartial ; and, most important, to provide for a plebiscite of the people in which all of them will be permitted to express without fear or favour their wishes as to the future government of the State.

From what has been said in the Security Council this morning, I feel confident that if the discussions are resumed, they will result in the development of specific proposals which will represent a substantial step forward in these important matters.

4. Text of the Speech made by Mr. DE LA Tournelle (France) in the Security Council Meeting No. 235 held on 24 January, 1948

I listened with emotion to the eloquent appeal of the United Kingdom representative. I think that Mr. Noel Baker accurately expressed the sentiments we all felt after hearing the statements of the two parties. Indeed, it is quite clear that, in spite of the critical situation which has arisen, the two Governments are too conscious of these great responsibilities towards the vast populations they have the honour to govern to risk all owing the present dispute to degenerate into a conflict.

The Security Council has taken only the first steps along a path which may lead to peace. Nevertheless, it has made an important decision in establishing a Commission which has very wide powers, since it is both a commission of investigation and a commission of mediation.

I think that the Commission's first task should be to organize a plebiscite as soon as possible. In that connexion, I think that the speediest procedure would be to continue consultations between the two parties, under the President's auspices, in order to establish the condition in which that plebiscite should take place.

Personally, I would suggest three conditions :

1. The withdrawal of foreign troops from the State of Kashmir.

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2. The return of the inhabitants, irrespective of their race—Hindu or Moslem—to their places of origin in that State.

3. The establishment of a free administration which would not exert pressure on the population and would give absolute guarantees of a free vote.

5. Text of the Speech made by Mr. Hsu (China) in the Security Council Meeting No. 235 held on 24 January, 1948

My delegation is pleased to note that, in spite of all differences, the two parties are in fundamental agreement. They agree that the case should be settled by pacific means and that the wishes of the people involved should be taken consideration.

Like all the members who have spoken, my delegation supports the suggestion of the representative of the United Kingdom that the parties be requested to continue the exploration of means of settlement under the guidance of the President of the Security Council.

The representative of the United Kingdom has made an appeal which was as statesmanlike as it was beautiful. I am sure both parties will respond favourably.

6. Text of the Speech made by Mr. EL Khouri (Syria) in the Security Council Meeting No. 235 held on 24 January, 1948

I wish to express my full agreement with the statement made by the representative of the United Kingdom, and also with the statements of the members who spoke after him. These statements certainly have been very helpful and useful for the continuation of our work, work on which we have made very good progress.

It is the hope of my delegation that these negotiations will be continued under the guidance of the President of the Security Council and that they will include the items which

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have been mentioned, especially those mentioned by the representatives of France and Canada.

Provision should also be made with respect to another point of disagreement among the parties, namely, the refugees in places other than Kashmir. They should be given the opportunity to return to their homes, and provision for redress should be made. It is to be expected that similar provisions will be established for both sides. In this manner all the causes of the dispute will be removed and no issue will be left to disturb the good relations and friendliness between the two Dominions.

7. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 236 held on 28 January, 1948

I do not intend by this intervention to try to put off or shorten the discussion by the representatives of the two parties. That is not the purpose of my asking for the ruling of the President at this point. I ask this question in order to keep the record straight.

I realize that in past times the position of the Security Council has been awkward because the parliamentary procedure was not difinitely understood in the begining. My question is: What is the parliamentary situation? Have the parties ended their negotiation under the guidance of the President of the Security Council? Have the parties reached that stage of their negotiations, where they have decided further negotiation would be futile? If that is not the case, then is the Security Counil now engaged in encouraging the parties to procede further with their negotiation, and attempting to guide them by our discussion? If this were the parliamentary situation then it would be perfectly clear that a long debate would be profitable, as it would lead to further negotiations, and possibly to a desirable agreement between the parties.

On the other hand, if the parliamentary situation is one in which the Security Council is bound to act under Chapter VI of the Chapter because of the failure of the negotiation, and to make a recommendation, perhaps under Article 37, then

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it seems to me that the business before the Security Council is question of the manner in which we are to proceed in order to determine our recommendation.

Of course we want the ideas of the two parties, but it seems to me they should be kept to this main point. The two parties have no real privilege under the Charter to discuss the procedure of the Security Council.

In one respect this a peculiar case, which is the reason I ask my question. In the complaint submitted by India, document S/628, India alleges that the situation is likely to endanger the maintenance of international peace and security. In the complaint submitted by Pakistan, in document S/646; Pakistan alleges that these disputes are "likely to endanger the maintenance of international peace and security". There is no room of dispute on this point. In bringing this case to the Security Council both parties allege that this is a case which falls within the condition set forth in Article 37, paragraph 2, which states : "If the Security Council deems that the continuance of the dispute is in likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider approrpiate."

Therefore is the Security Council at work on the phase of the matter ? Have we arrived at that parliamentary stage in this question where the parties are unable to do anything under Article 33 ? They had the recommendation of the Security Council that they should proceed by that method of negotiation ; they have negotiated, and they have arrived at a partial agreement. The Security Council is bound by the Chapter to consider that partial agreement if it proceeds under Article 37, because Article 36, paragraph 2, commands the Security Council to "take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties."

Of course, we want to remain within the scope of Chapter VI. It seems to me it would be good thing. in the interest of peace and security in the word, if this matter could be kept within the Chapter dealing with pacific settlements.

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But I think we should be very careful to keep our record straight and to know exactly where we are. Therefore, on the basis of the President's report, I ask whether we are now proceeding on the theory that the two parties have failed to reach agreement and that there is no hope of further negotiations, and therefore that it is our duty to recommend such terms of settlement as we may consider appropriate.

8. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 236 held on 28 January, 1948

If I have understood rightly what the President has just said in answer to the question put to him by the representative of the United States, it is the President's view—and I hope and trust that the parties will agree with this view—that it would be useful to him and to them to have a debate now in the Security Council on some or all of the points of substance which have arisen in the discussions between the President and the representative of India and Pakistan, the points of agreement, and the points of difference as set out in the papers which the two parties have given to the President. That debate, it is my conviction, would in fact help the President and the two parties.

Then, if I understood the President, he thought it would be a good thing—and he expected that the parties would think so, too—for the President and the parties to continue negotiations in order to ascertain whether, in fact, what the members of the Security Council had said had made it easier to come to a greater measure of agreement, if not complete agreement, in the talks between the President and the two parties.

I have always hoped, as I said before, that the parties taking part in these discussion would be regarded as a kind of sub-committee of the Security Council ; and the President, acting as Rapporteur, would take full charge of the discussions and report to us. I am sure that is the right plan.

Then, if I understood the President, he wanted to set a time limit, or at least to say that we would not allow these

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talks to continue for an indefinite time without a definite result. In that view, I am sure the representative of India will agree with the President, as I do very warmly, I share his view that it is urgently important to bring an end to the fighting now going on in Kashmir.

I remember what the representative of India said in his first speech here [*227th meeting*] which I have before me. He said : "There is at this very moment a small war going on in Kashmir. Every day that passes brings in its wake added sorrow and suffering to the people of Kashmir. Furthermore"—and this is much more important—"every day that the war is prolonged, the danger of the extension of the area of conflict grows."

That is what we have to get into our minds. If we do follow the procedure as the President has now sketched it, I nope that we shall make it plain that we cannot let many days go by before the Security Council must take up the matter on a different footing, namely, on the basis of Article 37 of the Chapter, as suggested by the representative of the United States, in order that we may make definite recommendations for a settlement. This does not admit of long delay.

I hope that we shall so proceed and, if that is agreed by the Security Council, that we shall make observations on some of the points which have arisen. I, for my part, would be able to say a little more on what has been put forward by the parties this afternoon. I do not do it now, but prefer to wait until the question of procedure is quite clear.

9. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 236 held on 28 January, 1948

The point which arose in dicussion between the representatives of India and of Pakistan was which question should be discussed first : which of the various issues which emerge in the documents now laid before us ? Should it be the plebiscite, or should it be what the representative of India regards as overwhelmingly the most important matter before

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us, namely, stopping the fighting in Kashmir. If the question is put like that, I do not know that I have any very fixed or dogmatic views. It is clear to me that now that we have had time to look at the documents—and I hope we shall go on tomorrow morning having studied them more fully—the Security Council ought to discuss the substance of the problem on the basis of these documents, and of the statements already made by the parties and any further statements they may care to make.

On the order of the points, there may be various views. My own, as I say, is not at all dogmatic. It is that I incline to agree with the suggestion made by the President that we should discuss the plebiscite first. Why? Not at all because I am against the view expressed by the representative of India that stopping the fighting is our most urgent task. I agree with him very fully. I have said so already, and I have quoted his own words. As we sit at this table and exchange legal and other technical observations, we must remember constantly that there are vast masses of women and children suffering as refugees, and men dying at the battle. The representative of India said this afternoon that the situation is deteriorating from day to day. We are, then, confronted with the question of how to stop the fighting. What will stop it, and in what way should it be stopped?

I do not believe for a moment that the Indian delegation or the Indian Government desire to stop this fighting by a military victory if it can be stopped by any other means. They do not want to crush those who are up in arms against their troops at this moment if they can be brought to an agreement in another way. They want them to stop fighting, as we all do, because they are convinced that it is not necessary for them to go on fighting; in other words, because the Kashmiris can secure peace, safety for their families, and a free choice as to the future of their country without any more fighting. Everyone must agree that no matter what measures are taken, by way or refusing supplies, and so on, the process of stopping the fighting by a military victory may be long and bloody.

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This is not a new point between the representative of India and myself. I have said it to him a number of times. He is familiar with my views. Stopping the fighiting by the sword has rarely proved, in history, to be a satisfactory way. It would not be very good preparation for a plebiscite. It is utterly out of accord with the philosophy and the thinking of of the two Governments which have been wise enough to bring this dispute here to us today.

What these two Governments want, and what we all want, is that the moral power and authority of the Security Council be brought to bear on the situation so that there can be a conviction on all sides that justice is to prevail, and that violence need not go on. Moreover, our object is not only to stop the fighting, but to keep it stopped. We have to arrive at a settlement which will prevent a new outbreak.

The fundamental difference of view between the two parties is on the question: To which Dominion shall the people of Kashmir accede? But they both hold the view that question is to be settled by the free expression of the people of Kashmir. I say in parenthesis that if that is done, the divergence of view—sometimes it might seem to outsiders to be b tterness—which this question of the future of Kashmir is now causing between parties, may easily disappear.

After the last war, there was a dispute between two Goverments in Europe concerning a frontier laid down in the Paris Conference. It was not a large area that was in dispute; it was high and mountainous country like Kashmir, less rich and less beautiful than Kashmir, but very beautiful by European standards. The Governments came, I would not say near to war, but to a point of great tension. They submitted the dispute to an international tribunal. An answer was returned. The parties agreed, and, within a year, they had made of that territory an international park dedicated to lasting agreement between the countries. In addition, they signed a treaty of all-in compulsory arbitration. I hope that this question, when solved by the Security Council, as I believe it will be, will lead to that kind of result. I further hope that the solutian will make Kashmir not a dividing factor but a link between the parties, and that the people of Kashmir

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will benefit from the free and friendly co-operation of both Governments.

The cause which is now in dispute here, the cause of the fighting in Kashmir, is the question : To which of the two Governments, India or Pakistan shall Kashmir accede ? In my conception infinitely the best way to stop the fighting is to assure those who are engaged in it that a fair settlement will be arrived at under which their rights will be assured. In other words, as I remarked to the representative of India in our first talk after his arrival, in my profound conviction, a settlement arrived at quickly in the Security Council is the real way to stop the fighting. The whole thing, from the preliminary measures as to the fighting, right up to the conduct of the plebiscite in the end, is all one problem. 'Only when the combatants know what the future holds for them, will they agree to stop.

If I have carried the members of the Security Council and, as I hope, the representative of India, with me thus far, I might suggest that it would be wise to start with what all of us agree is a vital part of the settlement, upon which agreement has been reached ; namely, the plebiscite. If the representative of India found at any moment that his views were being prejudiced or that his case was not being justly treated, then, of course, we could turn to another point to which he could divert our attention, or he would be able to correct us in any way. However, we are on firm ground if we discuss the three points on which, as the President reported, the parties are agreed ; first, that three shall be a plebiscite to settle the question as to whether Kashmir shall accede to India or to Pakistan ; secondly, that this plebiscite must be held under condition which will guarantee its fairness and impartiality ; and thirdly, that the plebiscite must be held under the auspices of the United Nations.

The formula which the President originally prepared has been improved by the a nendments which he reported on this afternoon : by the omiss on of the word "referendum", and by defining the object of the plebiscite as the choice of accession to India or to Pakistan. Therefore, I think that real progress has been made.

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As the President stated, a further question arises as to what should follow from the use of the words "the auspices of the United Nations". As I understand it, that is the point under debate. I have views on that point. I do not express them at this moment because I am speaking on the procedural aspects.

I hope I have succeeded in making the Security Council and the parties concerned think that it would not be inconvenient to start with the plebiscite. Of course, this would not exclude anything else which the representative of India may think relevant to the points which come up. We should not thereby be putting off the question of stopping the fighting. Perhaps we might be accelerating it because the plebiscite is part of that process. It is the part on which we have reached agreement all around the table. If we can create confidence in the plebiscite, then perhaps all that the Indian representative desires may quickly follow.

10. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 237 held on 29 January, 1948

The President decided that I was wrong, that we would do better to discuss together the question of the plebiscite and the question of stopping the actual fighting. For that reason the President has put forward these two draft resolutions arguing, as he did so well this afternoon, that these really two aspects of one question and that to try to separate them would be a mistake.

I am quite ready to accept the view of the President. I think that by accepting it, we escape the reproach to which we might otherwise be open in India : that we were fiddling with phrases while Kashmir burned. I not only accept the proposal of the President with regard to procedure, but I accept his draft resolutions. On behalf of my Government and as a member of the Security Council with its collective responsibility, I am sure that we shall do right to adopt the resolutions this afternoon.

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Speaking also on behalf of my Government and as a member of the Security Council, with its collective responsibility to all the nations which belong to our Organization, perhaps I may venture to make some reflections, I hope at not too great length, on the debate of yesterday and on the speeches made afternoon.

I was very much struck by what the representative of the United States said yesterday about the question of the continuance of this dangerous situation. He reminded us of the fact and it has been mentioned again by several representatives, I think, this afternoon, and certainly by one—that the spokesmen of India and Pakistan have drawn our attention to the fact that the situation is one which, if it continues, is likely to endager the maintenance of international peace and security.

The representative of the United States went on to point out that has important results for the action of the Security Council. I think it important because of the time factor. I venture to think that we have wasted no time in our proceeding in this matter in the Security Council, but I am sure that both parties will agree that we have no time to waste. If the negotiations which have taken place under the guidance of the President do not lead within a very short time to some definite result or to some hope of a full settlement in the early future, I feel sure that it will become incumbent upon the Security Council to see whether it cannot help in some more direct and effective way.

Secondly, I am glad that members of the Security Council seem to share the view, which I have expressed more than once, that a general plan of full settlement of outstanding differences will in fact, be the quickest way to stop the fighting As the representative of the United States used this afternoon, one cannot have a cessation of violence unless one has an agreement that satisfies everybody that the plebiscite will be free and fair, and, therefore, one must have an agreement as to how the plebiscite is to be prepared. I hope, therefore, that the Security Council will move as rapidly as possible to such a full agreement.

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I agree with what the representative of China said, of course, as we all must, that we must start by working out the principles upon which agreement can be built. If I understood him, he suggested that perhaps, when we had the broad general principles, we could then hand over the further task to the Commission, to be carried out on the spot.

My Government is doubtful as to whether it could be wise to leave too much Commission. Before we adopt the resolution by which the Commission was established, I suggested to the parties and to the Council that we should regard a primarily as a commission to apply a settlement which was made here in the Council [*230th meeting*]. I shall not repeat my words; I have them before me, and I have said them more than once. Of course it is a matter of degree, and I am in full agreement with the representative of China that there will be many details which the Commission will work out with the two Governments on the spot—of course, it will. But I hope that before we end our work here, we shall have had not only the framework, but the full structure of a settlement which will clear this matter away and remove it entirely as a cause of misunderstanding between India and Pakistan.

In working towards that agreement, I am sure that the draft resolution on the plebiscite which the President has put forward will, when it has been adopted by the Security Council, be an important landmark on the road. Even since the first speeches were made on this subject in India and Pakistan months ago, I have been considering what significance could be attached to the phrase "under the auspices of the United Nations." The more I think about it, the more convinced I am that phrase must imply not only that the plebiscite must be fair in inself, but that it must seem fair to all concerned; not only that in fact justice shall be assured, as I am certain it would be assured by the sole action of any one Government at this table if it had a free hand, but that it must seem fair to both the Government of India and the Government of Pakistan, to all the members of the Security Council, to all the Members of the United Nations and, I add—and I think

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this is the crucial point in stopping the fighting, as I have said before—that it must seem fair to the combatants, both Muslim and non-Muslim, in Kashmir itself.

Unless we can get such a system, I am sure that the Security Council would not be justified in undertaking any responsibility in the matter in the name of the United Nations. For that reason, I think the second paragraph of the President's draft resolution on the plebiscite is not only useful but essential. I do not think that the Security Council could give its authority in any similar case without retaining final control over what actually happens when the plebiscite occurs.

I agree with the representative of the United States that, of course, the organization of the plebiscite will involve considerations of administration, of the maintenance of law and order, and so on. I do not doubt that we shall have to debate those matters, but I do not think it is necessary to do so at this moment in order to enable us to adopt the draft resolution which is before us.

I should like to bring up an idea which has appeared before, I think, in a draft resolution, and which I know has been put before us in different forms by the representative of India and Pakistan, namely, that for the satisfactory execution of any plan the co-operation of the two Governments will, in fact, be required in many ways. Therefore, our task is not only to make a scheme, but to help to bring the Goverments to a state of mind such that they will desire to give their full co-operation in order to make that scheme succeed.

I have talked about the time factor. I am thinking not only of the danger of war, although I agree with the statement made yesterday by the representative of India that, day by day, the mere continuance of fighting makes the situation worse; I am thinking also of what the Government of India and Pakistan ought to be doing now if only they could get rid of this question of Kashmir which is on their backs. I am thinking of the general background of all their joint action for the promotion of the welfare of their peoples in time to come. At this moment they are both faced with enormous, crucial and almost terrifying economic problem. They must settle

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the refugee problem ; it is immense task. They must work out for their mutual benefit what their general trade, tariff and financial arrangements are going to be. Each of them has a separate and difficult problem of organizing its food supply ; each of them has a programme for the development of its economic resources. Schemes have been prepared—I had the advantage of seeing some of them in blueprint—for irrigation and water power, on a scale of which not even the United States would be ashamed, and which, if the programmes could be carried through, would, within a measurable period of years, change the face of the country and immensely better the well-being of the peoples.

We hope that the great new forces which have been released in the Governments of India and Pakistan will very soon be free to get on to these great tasks which lie before them and that, as they co-operate with each other, so the frontier, wherever it may be, that lies between them will become less and less a barrier, and the common interest which bind them together in all matters will become more and more evident to both.

The representative of the United States spoke of world opinion and said that whatever settlement was made here, would gain great strength if it had the approbation of good people in all countries throughout the world. World opinion is a great weapon. I am convinced that world opinion will be behind these resolutions. I ardently hope that it may also make possible early and rapid progress toward a settlement.

11. Text of the Speech made by Mr. Arce (Argentina) in the Security Council Meeting No. 240 held on 4 February, 1948

Article 1, paragraph 2, of the Charter of the United Nations lays down the following as one of the purposes of the United Nations : "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace."

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Now that the disputes between India and Pakistan have been submitted to the jurisdiction of the Security Council, the delegation of Argentina will not be able to vote in favour of any draft resolution which does not leave the solution of the problem to be decided by a plebiscite, freely prepared, freely conducted and freely scrutinized under the authority of the Security Council

This matter having been referred to the Security Council, the Council is perfectly free to decide as it thinks fit, on the sole condition that it acts within the framework of the Charter. This is the legal point of view. But even from the factual point of view, there can be no other solution. Both the Maharaja, as absolute monarch of Kashmir, and the government or governments established by him, have already shown themselves biased in favour of one of the parties and cannot therefore preside over a free plebiscite. Even if they could, they should not do so, because the opposing party would not recognize the fairness of this plebiscite, even if it had been fairly conducted.

It is worth while noting that, at this stage of the evolution of humanity, it is not possible, at least as far as the United Nations is concerned, to accept a regime absolute monarchy. Non-Self-Governing Territories report to the Trusteeship Council through the agency of the Administering Authorities upon a certain number of their activities.

The Governments of India and Pakistan should hasten to obtain from the Indian princes, whom they have joined to themselves, an assurance that they will grant representation rights to the peoples ..cts whom they rule. There are, if I remember slightly, 562 such princes and they rule over some 13 million human being, whose living and working conditions and cultural and economic advancement cannot be a matter of indifference to us.

Some discussion has taken place, in my opinion, mistakenly, on whether the order for cessation of plebiscite and the order for the holding of the plebiscite should be issued successively or simultaneously. In order to solve a problem, and especially a problem of this nature, it is necessary to

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show the underlying causes. It is worth while membering the Latin proverb, which says *sublata causa, tollitur effectus*, or, in other words remove the cause and the effects will disappear. In this case, the cause of all the disturbances, whether from India or Pakistan, or from the tribes, lies in the rebellion of the people of Kashmir againt the absolute monarch who rules them as if he were running a farm and the 4 million inhabitants were so many heads of cattle and not human beings.

If, therefore, in accordance with the provisions of the Charter already quoted, we assure these human beings that they themselves will be able to decide their own fate freely and without pressure from any quarter, I am sure that they will by down their arms, I am sure that the tribes will withdraw to their own territories and I am sure that India and Pakistan, having submitted to the decision of the Security Council of the United Nations, the Organization to which they both belong, will be able to come to an understanding and maintain the friendliest relations was the another, thus proving that they are really "developing peoples".

The me and only resolution voted by the Council should, therefore, heed the cry of a people in arms which is not represented here and thereby serve interests of the two dominions of India and Pakistan. Finally, it must not be forgotten that the people of Kashmir may decide, if they so perfer, not to belong to either India or Pakistan, but to remain an independent State.

12. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 240 held on 4 February, 1948

I think we are now in a situation where we can clarify the issues and have a better understanding among all the representatives with regard to what action we are going to take. In the first place, I should like to observe that the Security Council does not try, under the Charter, and is not

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now trying, to decide between litigants, opposite or parties to a situation or difficulty. When the Security Council is addressed, as it is here, by the Members of the United Nations, it acts purpose to that broad and benevolent purpose which is stated in Article 1 of the Charter. That Article states :

The Purposes of the United Nations are :

"1. To maintain international peace and security, and to that end : to take effective measures for the prevention and removal of threats to the peace, and for the suppression acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment of international disputes or situations which might lead to a breach of peace ;"

That is the broad purpose and jurisdiction of the matter. By what method are we proceeding to do this ? It is under Chapter VI, which provides for the pacific method of settlement or clarification of the situation which, on the allegations of both parties, accordining to the record, is one that threaters the peace of the world.

Under Chapter VI we have not advanced beyond the stage of procedure in which the negotiation is exercised through the parties themselves, under the guidance and help of the Security Council, aimed at as much agreement between the parties as can be attained. We have never given up the idea that in this case the parties may ultimately arrive at an agreement. One reason for our great hope that they will arrive at an agreement regarding problems in this case is that the parties have agreed in advance on many factors in the solution of this problem. I shall deal with those points of agreement a little later and shall speak of them more specifically.

I wish to continue with the proposition that we must keep our record clear and understandable to all the world, because the world is witnessng the transactions in which we are engaged today. These transactions are so grave that they

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might affect the advancement and progress of that part of the world, including not only that Sub-Continent, but also the islands of the sea and many other countries in that area where transformations and advancements toward a more liberal and free government are being made by the people themselves.

The Security Council is being watched because all the world is sitting with bated breath the waiting to see whether the sparks in that area will burst into a conflagration that will involve the entire world in another war, a war the horrors of which we cannot conceive, in view of the advancement of scientific methods of mass killing.

The Security Council has not arrived at that stage referred to in Article 7 of the Charter. I refer to Article 37, paragraph 2, which provides : "If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate." The Security Council has not arrived at that stage because the conditions mentioned in Article 37, paragraph 1, have not arisen– condition in which the parties themselves say that there is no further use of trying to arrive at a solution by negotiation. Certainly the members of the Security Council have not arrived at the judgment that no further efforts should be made toward negotiation in the attempt to reach agreement between the parties. Until we arrive at that stage we do not begin the consideration of resolution that recommend the terms of settlement.

The Security Council has before it two draft resolutions. I may be wrong, but I have the impression that they are no understood, and I should like to attempt to clarify the matter. Therefore, let us consider exactly what these draft resolutions are.

One of the draft resolutions, set forth in document S/662, relates to the operations of the Commission, the establish ent of which we have already agreed upon. Although this draft resolutions has been characterized as being meaning-

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less and entirely innocuous, and as one that can do neither good nor harm, its purpose is to allay some of the fears and to add a little to the duties of the commission. It does not constitute a decision by the Security Council under Article 37.

The other draft resolution set forth in document S/661, expresses nothing but an opinion. Yet it has been discussed as if it were a recommendation of the type the Security Council would be authorized to make under Article 37.

Nothing that we have done up to this point in the record has been an action under Article 37. All that we have done up to this point, and what it is now proposed to do under the two draft resolutions before us, comes under the provisions which are designed to bring about a solution by negoitation. Therefore, it is true that we have not brushed aside the claims and allegations of either partly. On the contrary, we have them constantly in our minds and they form part of the background for our efforts to guide the parties during their further negotiations. If these draft resolutions were to be passed, they would not terminate be consideration of any of the claims. In fact, I should feel that it would be erroneous for the Security Council, in solving this matter—if it were acting under Article 37—to undertake to do it pecemeal, by handling the termination of hostilities with one hand and the plebiscite with the other. I believe that method would be entirely incongruous and would not lead to any successful solution of the matter.

It is my opinion that, if and when the Security Council deals with this problem, it must consider has a whole, because unless it does, there cannot be a cessation of hostilities. How is it possible to induce the tribesmen to retire from Jammu and Kashmir without warfare and without driving them out ? That is the only way it can be done, unless the tribesmen are satisfied that there is to be a fair plebiscite assured through an interim government that is in fact, and that has the appearance of being, non-partisan. Only by that method could one hope to have that retirement on a peaceful basis.

We know very well that the alternative is force, and force which has not necessarily been successful when the

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frontier is reached. The passage of the tribesmen across the frontier does not mean that hostilities have been ended. On the contrary, I think that reason indicates that hostilities will have only just begun if an attempt is made to reach a separate solution of this matter and to have the troops get out of Jammu and Kashmir merely because we say so, without our having said to them have we are going to consider all sides of the question and that the plan insolves not merely a retirement but also a plebiscite by which the people will register their own choice in the main issue, that plebiscite to be guaranteed to be impartial and just. Nothing short of that is conceivable as a peaceful means of accomplishing the withdrawal of these armed forces from Jammu and Kashmir.

I wish to have one point definitely understood. The Security Council is not partial; it is not prejudging; it is not discriminating between the parties and their claims; it is not brushing aside the claims of anyone. The Security Council is welcoming these claims and it is giving careful thought to them, and it will continue to do so as long as the Security Council has jurisdiction over this matter.

I hope that we may never have to come to a thorough and specific analysis of the claims of the parties. I hope, on the contrary, that the parties will agree, before we are through with this question, on the specific terms that will take care of the whole matter, including the removal of troops, the stoppage of transportation of ammunition and weapons, the establishment of an interim government that will guarantee the security of the inhabitants and assure them their freedom in the use of the ballot, "the creation of a peaceful situation that will invite the return of those who have fled from Jammu and Kashmir into other parts of the country, and that will make it possible for the people themselves to say what the solution shall be with regard to the fundamental question as to the country to which Jammu and Kashmir will accede.

The interim government need not exist for a long time. It need exist for only such time as is necessary to set up the machinery for the holding of a fair plebiscite. After the

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plebiscite, what then ? That interim government will be *functus officio* ; it will have completed its job and it will have no more authority. There are many such institutions in government and they are especially important in international affairs. Of course, we would not be interested in this matter if it were purely a domestic affair.

What the Security Council is faced with is the fact that two Members of the United Nations have come before it with an international problem. That problem involves the external sovereignty of Jammu and Kashmir. In my opinion, it is entirely appropriate to speak about the pride of sovereignty. That is a characteristic of sovereignty. Even corporate sovereignty has a pride and honour. We used to go to war over a violation of the honour of that sovereignty. But, however much we are concerned about the delicacy of the feelings of a personal sovereign, a person who is a Maharaja or a prince, we must face the legal situation. The external sovereignty of Jammu and Kashmir is no longer under the control of the Maharaja. The external sovereignty of Jammu and Kashmir is the sovereignty that is involved here. This is an affair between nations, and with the accession of Jammu and Kashmir to India, this foreign sovereignty went over to India and is exercised by India, and that is how India happens to be here as a peitioner.

I want to refer to the record in his regard. I have before me extracts of certain basic papers that absolutely put beyond question the fact that the particular issue before us is properly here under the petition of India and Pakistan. Lord Mountbatten, in accepting Kashmir's accession in the special circumstances prevailing, said in his letter to the Maharaja :

"……in consistence with their policy that, in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people……it is my Government's wish that as soon as law and order have been restored in Kashmir and is soil cleared of the invader, the question of the State's accession shall be settled by reference to the people."

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Thus it became an actual integral part of the terms of accession. Subsequently, in a broadcast from Delhi on 2 November, Pandit Nehru reiterated that India, in accepting the accession of Kashmir, accepted at the same time the position that the ultimate future of the State should be decided by the Kashmir people.

He said : "A neighbouring Government using language not fit for governments, has accused the Government of India of fraud in regard to the accession of Kashmir to the Indian Union. I agree there have been fraud and violence in Kashmir, but the question is, who is responsible for it ? I am convinced that what we have done was the right thing. We have no intention of using our troops in Kashmir when the danger of invasion is past.

"We have declared that the fate of Kashmir is ultimately to be decided by the people. That pledge we have given, the Maharaja has supported it, and we wish to give it again, not only to the people of Kashmir but to the whole world. We want it to be a fair and just referendum, and we shall accept the verdict. I can imagine no fairer and more just offer. We are prepared, when peace and law and order have been established, to have a referendum held under international auspices like the United Nations."

I have something else here which bears upon the exercise of the external sovereignty of the State of Jammu and Kashmir by India. At a later time, I hope to be able to point out that there is no less to the Maharaja in that grant of sovereignty, if it is temporary.

I wish to satisfy the members of the Security Council, and I wish to convince the parties if I can—and perhaps the people of the two great countries involved—that in the formation of an interim government, a thing which the Maharaja has already engaged in, the Maharaja does not lose his sovereignty. On the contrary, he exercises it to meet an emergency.

With regard to this other matter that bears upon the exercise of the external sovereignty of the State of Jammu

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and Kashmir by the Government of India, I wish to submit the following. I am informed that this is an extract from a telegram sent by Pandit Nehru to the Prime Minister of Pakistan, dated 8 November 1947. The members of the Security Council will notice that this is just ten days after the accession. It is near enough to the accession itself to give colour and interpretation to it. The following purports to be an extract from that telegram.

"It will thus be seen that our proposals, which we have repeatedly stated, are ;

"1. That the Government of Pakistan should publicly undertake to do its utmost to compel the raiders to withdraw from Kashmir ;

"2. That the Government of India should repeat its declaration that it will withdraw its troops from Kashmir as soon as raiders have withdrawn and law and order are restored ; and

"3. That the Governments of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite in Kashmir at earliest possible date."

That is a very significant exercise of sovereignty. On no other basis can these parties be here and present the claims that they do except that, on the one hand, Pakistan is exercising the external sovereignty of Pakistan, and, on the other hand, India is exercising the external sovereignty of the State of Jammu and Kashmir.

I do not think that any party present should be asked to act in such a manner as to cause the Maharaja to lose dignity, honour or reputation. However sensitive the Maharaja may be, he ought to be able to understand that what is suggested here by way of an interim government is nothing but an exercise of external sovereignty requested by the Government to which he has ceded the exercise of that sovereignty for the time being. A plebiscite may turn it around. I do not know. The Maharaja does not know; but the says that if it does, the result of the plebiscite will be accepted.

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I am going to put into the record, perhaps at the risk of taxing the patience of the members of the Council, some ancient authorities which I have used before when this question of external sovereignty was raised on the very important question of whether the United States of America was surrendering its sovereignty by ratifying the Charter of the United Nations. In passing, I might make this general observation. Whenever a sovereign, whether it is a personal sovereign or a corporate sovereign, exercises his sovereignty is a specific manner which is found to be necessary to meet an emergency, he does not lose his sovereignty ; he strengthens it. He may be saving it from destruction. He may exercise that sovereignty through an interim government, just as he is doing already, or he may exercise it in some other way. However, the mere exercise of sovereignty or the delegation of certain specific powers does not destroy or weaken his ultimate sovereignty.

Now Mr. Oppenheim is an authority with whom members of the Council are acquainted. In volume I, page 174, he points out that a State does not lose any part of its sovereignty by concluding a treaty of arbitration, and that if we had a general treaty of obligatory arbitration, the contracting States would remain sovereign because all would be equally and reciprocally bound.

Mr. Merignhac, another great authority on international law, urges, in part II, page 43, that treaties of guaranty do not destory sovereignty. He says that such treaties do not necessarily imply a limitation of sovereignty, not unless the State whose rights are guaranteed binds itself permanently not to exercise important or essential sovereign powers such as other States customarily enjoy.

Here is a curious case which bears some resemblance to that part of the present situation where one speaks of the loss of sovereignty and the reflection upon the dignity of the ruler by turning over an interim government temporarily to someone else. In the case of Duff Development Company, Limited, against the Government of Kelantan, in which the

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House of Lords affirmed an order staying proceedings against the Government of Kelantan on the ground that the Sultan was an independent sovereign over which the Court had no jurisdiction, Viscount Finlay made the following remarks :

"It is obvious that for sovereignty there must be a certain amount of independence, but it is not in the least necessary that for sovereignty there should be complete independence. It is quite consistent with sovereignty that the sovereign may, in certain respects, be dependent upon another Power : the control, for instance, of foreign affairs"—is there not a resemblance here to this situation with respect to Jammu and Kashmir ?—"may be completely in the hands of a protecting Power, and there may be agreements or treaties which limit the powers of the sovereign even in internal affairs without entailing a loss of the position of a sovereign Power."

These quotations are used by me as illustrations of the delegation for the time being, of a special, specific function to meet a purpose that was beneficial to the inhabitants, citizens and subjects concerned. The Permanent Court of International Justice, in its judgement rendered on 17 August 1923, in the case of S.S. Wimbledom, involving the refusal by German authorities to permit this British ship to pass through the Kiel Canal, said :

"The Court declines to see in the conclusion of any treaty by which a State undertakes to perform or refrain from performing a particular act an abandonment of its sovereignty. No doubt any convention creating an obligation of this kind places a restriction upon the exercise of the sovereign rights of the State, in the sense that it requires them to be exercised in a certain way. But the right of entering into international engagements is an attribute of State sovereignty."

Then we have a case of our own, which is especially interesting to me. It involves the relationship of the forty-eight sovereigns we have in the United States—the forty-eight States themselves—to the Federal Government. Of course, we had some people who asserted strongly that these States just could not let the Federal Government control their

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international affairs—in other words, their external sovereignty, and they took it to the Supreme Court, that great body created primarily for the business of passing upon constitutional law.

The Supreme Court, through Mr. Justice Sutherland, in United States against Curtiss-Wright Export Corporation and others, upholding the constitutionality of the joint resolution of Congress, approved on 28 May 1934, to prohibit the sale of arms or munitions in the United States, said :

"Rulres come and go ; governments end and forms of government change ; but sovereignty survives. A political society cannot endure without a supreme will somewhere. Sovereignty is never held in suspense. When, therefore, the external sovereignty of Great Britain in respect of the Colonies ceased, it immediately passed to the Union. It results that the investment of the Federal Government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution. The power to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other soveregnties, if they had never been mentioned in the Constitution, would have vested in the Federal Government as necessary concomitants of nationality.

"...The power to acquire territory by discovery and occupation, the power to expel undesirable aliens, the power to make such international agreements as do not constitute treaties in the constitutional sense."—I am not reading the citations although there are many to support each of these phrases from separate and different cases dealt with by the Supreme Court—"none of which is expressly affirmed by the Constitution, nevertheless exists as inherently inseparable from the conception of nationality."

Finally, there is the most notable example of the granting of certain special acts of sovereignty so someone else being assented to without the loss of honour or dignity, or, in fact, any real loss of sovereigntly, which is to be found in our own relations in the United Nations. When the great meeting was

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held at Moscow and the four Power Declaration was made, we found this doctrine readily assented to by those four great Powers, and afterward France joined with them. I think it may be that the three Powers made the original declaration and that France and China subscribed to it later but, however that may be, this is the doctrine. In artcle 6 of the Moscow Declaration on General Security we find these words :

> "...after the termination of hostilities they will not employ their military forces within the territories of other States except for the purposes envisaged in this declaration and after joint consultation."

That was a tremendous waiver of the independance of each one of the those great Powers to employ its forces independently of the others at a time when it thought its honour or rights were challenged and that it was necessary to use them. Yet, there was no idea on the part of the great Powers that they were suffering any loss of dignity in honour because of these waivers and special arrangements made for the purpose of specific acts. When we come to the United Nations we have no doubt at all that our act of acceding to a general, universal international organization, set up for the purpose of abolishing war and assuring peace, and our solemn pledges there to carry out the decisions of the Security Council and the policy and principles contained in the Charter, do not diminish our sovereignty, although they are acts that would be specifically outside the right of any of the other countries except our own.

But we are accustomed to doing this. The United States has especially granted external sovereignty so many times that it is a habit and a custom with us. I shall put some illustrations into this record, because the number of them will show that we certainly did not lose dignity. We do not consider that there was any loss of honour, or any injury to delicate susceptibilities or sensibilities that we might have. We passed over a part of the customary exercise of sovereignty to others outside the United States, working tagether with us,

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of course, in collaboration, but nevertheless we regard the exercise of external sovereignty in this matter as actually serving our people, and as making probable their welfare and their security. Of course, if that is not the purpose of this hearing before the Security Council, I have misjudged it. I have judged right along that the purpose of these petitioners, fellow-Members in the United Nations, is to promote the general walfare, peace and security of Kashmir and Jammu.

Among the treaties in which the United States of America has participated, and by virtue of which our nationalism was conditioned or limited, there are those setting up the following so-called permanent international commissions and other organizations: Permanent Court of Arbitration, International Institute of Agriculture, International Office of Public Health, International Labour Organization, international boundary comissions, international fisheries commissions, Permanent International Association of Navigation (Congresses, permanent commissions of investigation) and conciliation, permanent commissions of inquiry provided for by treaties for the advancement of peace and treaties of conciliation. Numerous agreements exist which do not have the dignity of treaties but which condition the nationality of each of the parties thereto, such as the International Office of Public Health. The Pan-American Union, International Sugar Council, Wheat Advisory Committee, Committee of Experts on the Codification of International Law. Permanent Committee of Jurists of Civil and Commercial Laws, Inter-American Committee of Experts on Nature Protection and Wild Life Preservation, Inter-American Financial and Economic Advisory Committee, Pan-American Resources Commission, Inter-American Commission on Tropical Agriculture, Inter-American Coffee Board and the Congress of the Postal Union.

In March 1945, the United States and twenty other Republics in the Western Hemisphere promulgated the Act of Chapultepec by which they declared that an attack upon one of us is an attack on all of us and we shall go to the rescue. That was confirmed, for time of peace, by a treaty that was

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entered into at Rio de Janeiro last August. Did we suffer any loss of honour or dignity by making use of our sovereignty collectively in that manner? No. We see clearly that we gained security, dignity and honour, in our own consciousness and before the world, by such grants to each other as were mutual.

Now here we see the external sovereignty of Kashmir and Jammu possessed, and exercised before us in this petition, by India. A plebiscite is one of the conditions attending the accession and the grant of this part of the exercise of sovereignty from Kashmir and Jammu to India. That is the cold fact in the matter. The Maharaja has already assented to these proposals and India is fully authorized to go through to the end with all the negotiations that are necessary to bring about a solution of this international problem. If this solution involves an interim government, in order to assure the withdrawal of invaders from Kashmir and Jammu, India has full authority, and does not need to go back and reverse the history of this transaction and the settled position which is represented by their appearance here.

The Maharaja has already assented to a peaceful settlement of this situation and the record on that is, I think, beyond question. Those reference that I quoted from Lord Mountbatten and Pandit Nehru, as well as the statements here of the representatives of India and Pakistan, clearly settled that, up to a certain point, we have agreement that ought to enable us to go on with these negotiations and finish them with a well-rounded plan that will work, and not a plan that requires enforcement by armed measures and violence.

Therefore, I hope we have made it clear, so that all that are interested may know, that those drafts resolutions now pending before us are not ultimate solutions and are not intended to fore-close consideration of any claims by either party. They are solely a step in the proceedings, under Chapter VI of the Charter of the United Nations, to advance, promote and render more feasible a solution of this difficulty by negotiation and agreement of the parties. That is all. If the time comes—and God forbid that it should; I hope that

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it will not come—when we must act under Chapter VI. Article 37, of the Charter, then these claims and these arguments so ably made will be taken into consideration and given complete weight, and we shall arrive at a balanced recommendation, one that covers the whole ground and is not divided into such compartments that we know it cannot work except by force.

13. Text of the Speech made by Mr. Tsiang (China) in the Security Council Meeting No. 241 held on 5 February, 1948

Before going into the substance of the questions under discussion, I should like to offer a suggestion in regard to our procedure. We have heard lengthy statements from the representatives of India and Pakistan, and we are now in the course of a general discussion. I suggest that at the conclusion of this general discussion the President again enter into direct conversations with the representatives of India and Pakistan to explore the possibility of narrowing the differences and of finding new solutions which would be acceptable to both parties.

With regard to the substance of the questions under discussion, when I last spoke in the Security Council on the draft resolutions submitted by the representative of Belgium [*documents S/661 and S/662*], I was under the erroneous impression that they had been agreed to by the representatives of India and Pakistan. I have learned that this is not the c se. However, I do not mean to suggest that today I intend to withdraw my support of the draft resolution. I find that those draft resolutions, while going in the right direction, may not meet the case and, therefore, require further consideration. Some parts might be amplified and other parts modified.

The suggestion has been made that an interim regime be set up in Kashmir. If the President should accept my suggestion for the two parties to enter into direct negotiations,

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the suggestion of an interim regime might be explored in detail during these private conversations.

I would, however, make a further suggestion in relation to this matter. In view of the constitutional relationship, it might be that the representative of India would find it difficult to make Kashmir accept the suggestion of an interim government. In that case, we shall again find ourselves deadlocked, without any further possibilities as to a solution.

An interim regime is, in fact, a government limited as to time. A government today performs a multitude of functions. What we are interested in is that the plebiscite to be conducted in the State of Jammu and Kashmir should be really free. In that case, is it necessary for the Security Council to recommend that an entire new regime should be set up ? Furthermore, the question of the competence of the Security Council might be raised with regard to that suggestion. Therefore, I suggest that the Security Council try to provide electoral machinery under which a free plebiscite would be carried out. Instead of embracing all the functions of the government, we should concentrate on that aspect which concerns us ; that is, the plebiscite. I also suggest that a further canvass be made of the parties in the private talks which I hape will be conducted after this general discussion.

Another idea occurs to me. Both the representative of India and the representative of Pakistan have stressed the urgency of the situation. They wish their problems solved as soon as possible. Now it is clear that the fighting should be stopped as soon as possible. It seems to me that the Security Council might well recommend to the Government of Pakistan that its legal and moral influence should be thrown in the direction of pacification, and that the tribesmen should be stopped from further fighting.

I do not think that sort of recommendation is sufficient by itself from both a factual and a psychological standpoint. I would therefore add the further recommendation that the Security Council appeal to the Government of India to withdraw its troops progressively from Kashmir.

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In regard to the question of the restoration of peace, as well as in regard to the conduct of the plebiscite, I suggest that, after the fundamental principles have been determined in the Security Council, we leave large discretionary powers to the Commission of the Security Council on the Jammu and Kashmir question, which will be in touch with the personalities, movements and groups in India and Pakistan, and which might, on the spot, discover a solution—practical, technical procedures—in line with the principles decided upon here, which the Security Council, from a distance, cannot produce.

14. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 241 held on 5 February, 1948

I am very glad that we are now entering upon this debate on the substance of the settlement which, we hope, will be reached in the question of Kashmir. I am grateful for the speeches of those representatives who have preceded me, and for those of the representatives of India and Pakistan with which the discussion opened. I do not complain at all that in their speeches both parties made charges and counter-charges concerning raids on their own territory from the other side, and about killings which have taken place. I think that it was right for them to make those charges and counter-charges, even now when we are considering the substance, because it shows that the situation with which we are dealing is still dangerous in the extreme.

It is my conviction that raids and incidents will continue to occur until the question of Kashmir has been disposed of by the Security Council. Several incidents were cited here of which I have heard accounts given by both sides, and on which I have received independent reports. I could give an explanation of what occurred—an explanation which might make it appear that the blame on one side or the other was much less than might be thought at first sight. The explanation would show that in reality the incidents were due to an overriding

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fear. And, so long as fear dominates the minds of the peoples in that area of the Punjab and of Kashmir, incidents will continue and the situation will remain extremely grave.

We have embarked on the discussion of the substance of the question as to how we can stop the fighting, and I hope that we shall not cease to deal with this subject until we have evolved a scheme which will do the job. I have the greatest sympathy with the viewpoint from which the representative of India started. In response to a remark that fell from him about ten days ago, I said that the Security Council must be careful not to leave itself open to the charge of fiddling with phrases while Kashmir burned. That was made a headline in the Indian papers, "Council fiddles while Kashmir Burns", but I would not admit the charge so implied. Nevertheless, we must stop the fighting and we must stop it soon.

There has been some question as to what "stopping the fighting" means. Does it simply mean that India asks Pakistan to do its duty in closing the frontier, removing intruders, preventing the incursions of the tribesmen, and cutting off supplies, and that then the Indian Army can easily finish off the rest ? I feel sure that the representative of the United States was right when he said that is not what the Indian delegation wants. It wants a total stoppage of all acts of violence, and wants it now.

Can that result be achieved by the sort of action which it has been suggested that Pakistan should take, and by that alone ? We are dealing with issues so grave that each of us must speak with full sincerity and with a full sense of responsibility for his words. It is my own view that the Security Council has never had a question of such magnitude as this, a question having such vast implications for the future of mankind. We must say what we really think.

The representative of India quoted an article from *The Times* of London of 26 January. It is a very remarkable article. I read it and marked it—I have a copy before me now—before the representative of India referred to it at all. I know that *The Times* never sends men who have not the highest experience on such jobs as this, and I have every reason to believe that the authority of this writer is very great.

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In any case, he was quoted—and quoted with approval—by the representative of India.

What is the meaning of the article? Taken as a whole, what does it say? It says that unless the Security Council reaches a solution of the Kashmir question which seems just to all, we shall not only not stop the fighting, but we shall provoke a far worse conflict than now exists because we shall bring down a new influx of the tribes.

I say with all conviction that the representative of India is quite right when he says that in getting a settlement, Pakistan must take strong action in this matter; that the Security Council must make it possible for Pakistan, in conjunction with India, to do so. We want a real total stoppage now, without further bloodshed, without more killing of the insurgents, whose votes, after all, we want in the plebiscite when it comes, our aim being to secure a responsible government, as the representative of India has stated. We must get such a scheme. The question is how to do it.

I was in warm agreement with much that was stated by the representative of China a few moments ago. I was not in full agreement with what he said about our Commission. I do not believe that we could pass a few resolution here, send the Commission out, and get a stoppage of the fighting. I think all my experience—and certainly all the information which I have received—tells me that it will be far easier in the Security Council itself to obtain the agreement and the concessions which may be required on the part of both sides.

What is the substance of the agreement? In the first place, there is Pakistan's duty in the matter of cutting off supplies, of stopping the tribesmen from coming in, of stopping their own volunteers, and of encouraging the insurgents to stop. There is the problem of getting those who have gone into Kashmir to come out of it. There is the problem of keeping order afterwards inside Kashmir.

It is my belief that those tasks can be accomplished only by the co-operation and the joint action of the two Governments, with the help of the Security Council in any way in which it can be given usefully. However, as the representative of the United States stated in the first speech which he made

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on this subject, we must add a political arrangement to that which will inspire confidence, an arrangement that will persuade all the parties to this unhappy fighting that it ought to end.

The members of the Security Council already have made a good many suggestions as to what is needed. We have spent our leisure moments, such as we are allowed in this hospitable city, in reading the verbatim records of our discussions up to now. In the verbatim record of the 235th meeting, held on 24 January, we find proposals concerning the conditions of the plebiscite. We find proposals that the plebiscite should be organized by and under the authority of the Security Council. We find proposals that there should be an interim administration recognized as free from the smell of brimstone, not involved in the present fighting, and as impartial and perfect as two great countries like India and Pakistan can make it. We find proposals for adequate arrangements for *emigres* to come home, arrangements that will give those *emigres* confidence that they will be all right when they get home, arrangements which will induce them to start on their journey homeward, arrangements for the maintenance of order under the law. We find proposals with regard to all those points.

In this debate we have had further elaboration with regard to some of those proposals. I am in broad agreement with what has been said by the members of the Security Council. I do not believe we shall avert a war unless we can get a scheme founded on the propositions which have been put forward.

Of course, the vital part of this, the part to which everything else leads, is, as the representative of China so rightly urged just now, and as the representative of Argentina urged with great force yesterday [*240th meeting*], the plebiscite itself. We have had much discussion as to whether we shall consider first the plebiscite or the stopping of the war, whether we shall consider the plebiscite and work backwards, or whether we shall consider the stopping of the war and work forward. We always have come to the same conclusion, and all the speeches which have been made during this present debate have brought

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ns to that conclusion : that we must consider the whole thing together.

I repeat, as so many others have said before, that if the combatants are now to cease the carnage, they must know what is to happen when they do. They are risking their lives because they believe it is better to die than to surrender. We have to remove the basis of that belief. The plebiscite is the vital part of the whole settlement. It was suggested yesterday—and I have the exact words—"that the conduct of the plebiscite was not really the business of the United Nations ; that it really did not concern the United Nations ; that, after all, the holding of it was a matter for the Government and the people of Jammu and Kashmir".

If the arguments presented by the members of the Council prevail—as I hope they will prevail—every member of the Security Council should now agree that the plebiscite is really a matter of vital interest to every nation in the United Nations for whom we speak. The plebiscite is the culminating instrument by which the fighting can be stopped. It is the means by which we can create stable conditions in which an assured peace for the years to come shall be established between India and Pakistan ; it is the means by which we hope to avert a conflict which will involve 400 million people.

That must be of vital concern to every nation. The principle was enunciated long ago by Woodrow Wilson in his draft of Article 11 of the Covenant of the League of Nations which read : "Any war or threat of war, immediately affecting any of the members of the League or not, is hereby declared a matter of concern to the whole League..."This principle was put in a new form which won the approbation and concent of the whole world, by a famous spokesman of the Union of Soviet Socialist Republics, who said that peace is indivisible.

Everything which affects peace affects everyone. It is declared in the Charter in Article I, paragraph 1 ; Article 2, paragraph 5, and Article 24, paragraph 1, and in other places, too.

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This plebiscite must inspire confidence in everybody, including those who are now fighting. We have all stated it before. The representative of India said at our 239th meeting the day before yesterday that the two parties interested in the Kashmir question are Pakistan and the insurgents in Kashmir. Therefore, we have to satisfy these two parties. What the Security Council does must seem fair to these two parties. It must also seem fair to Government of Pakistan, to the insurgents, to the tribesmen, to the Government of India, to the other inhabitants of Jammu and Kashmir, and to the outside world. That is why I arrived at the same conclusion as the other members of the Security Council who stated that impartial, interim administrative arrangements must be made. If we are looking into the past for precedents, I may say that I lived through two international crises; one over Upper Silesia and one over the Saar. I think that the arrangements made for those crises between the two wars will certainly be in agreement with proposals which have been made here. Therefore, I hope that we shall now give full consideration to these concrete proposals which the members of the Security Council have put forward. As was said very well by the United States representative yesterday, nothing said by either the delegation of Pakistan or the delegation of India has been brushed aside or rejected.

I hope we shall consider the concrete proposals put forward by the members of the Security Council to end the carnage, to get the tribesmen and the other intruders out of Kashmir, to restore order and maintain it when it has been restored, and to organize the plebiscite and ensure by fair and impartial interim administrative arrangements that the plebiscite is properly conducted.

If we are to do that, I venture to think, with great respect, that the two resolutions which are before us are no longer quite adequate. It may be worth while for us to see if we cannot obtain a new and more comprehensive proposal which we can take up and upon the basis of which we can arrive at a definite conclusion in the early future. I say "early

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future", because we shall soon be in the fourth week of our work. I believe that the members of the Security Council have a special duty—even greater than they had last Friday —to reach a plan which will bring rapid, complete, and final peace. I am certain that the peoples of India and Pakistan are capable of the great wave of generosity that is needed to bring them together and to make peace possible. I—like other members of the Security Council, but perhaps more than some of the others—have spent my life studying how wars begin, what people think wars are for, and the results to which wars lead. In this connexion I asked myself, "Is Kashmir to be another Alsace-Lorraine ?" One of my friends wrote a book in which he said that Kashmir was to lovely a country that no lifetime was long enough to absorb the wonder of it. However, rather than have a war over Kashmir, it would be better that the people should be given their choice of either Pakistan or India and that Kashmir should disappear beneath the waves. The alternative to a settlement here is a conflict ; let us ensure that this does not happen.

15. Text of the Speech made by Mr. Noef Baker (United Kingdom) in the Security Council Meeting No. 243 held on 10 February, 1948

The President and the Rapporteur, the representative of Belgium, have asked the Security Council—and this is the first thing they put to us—whether, in the draft resolution which they have circulated, they have adequately translated the general thought of the Security Council on the right solution for the problem which is before it.

The representative of Argentina, Syria and, if I understood him, France, have answered this question affirmatively. They think that this resolution does sum up the views of the Security Council as they have been expressed in our debates hitherto ; that we ought now to intimate to the President and the Rapporteur our gratitude for their work, and our approval

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of what they have done ; and that, in the phrase of the representative of Argentina, we ought to consider that such a resolution would be a useful basis for further discussion.

Since we met last, I have spent a lot of time reading over the whole of the verbatim records from the time we began our work on this question. I have studied with particulr care the constructive proposals which have been put forward by various members of the Security Council, including, if I may say so, with special attention, the memorandum put forward by the representative of Colombia.

I have come to the conclusion that, while of course the statement of the President is not more than an outline, nevertheless, it is a faithful translation into broad principles of the way in which the Security Council thinks—that we ought to proceed towards a settlement of the difficult, dangerous and immediately important question of Kashmir. When I say that it is only an outline, perhaps I may illustrate what I mean by reference to sub-paragraph (*a*) following Alternative B of the document submitted by the President, which states : "Acts of violence and hostility must end."

Under that heading, the representative of India has asked—and I think, as I have said more times than one, with justification—for a decision that when a settlement is made, Pakistan must take drastic action to bring the fighting to an end, and to keep order and peace thereafter. Pakistan must fully co-operate in many ways.

But that one line evidently needs a good deal of elaboration. That leads me to say that if we are to have an interruption of our debates here on this matter, I think that interruption might be put to useful purpose by the President and by the Rapporteur, in consultation with others if they so desire—but I think they could certainly do it—if they were to study this outline of principles in order to see if they could work out a more complete scheme. That would prejudge nothing. It would prejudge none of the difficulties which the delegation of India now feels abould the principles themselves. But if,

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in fact, when they come back to us very soon, they could indicate certain changes that may be made, but that they were able to go forward on this or on some broadly similar kind of basis, then, if the thing had been more worked out, we might be a good deal further forward.

Therefore, I hope that the President and the Rapporteur may be able to do that in the intervening time. I think it would be of general advantage if they could. I say that with more confidence because my Government adheres very strongly to the view that much the best chance of getting a real settlement of this matter—and by that I do not mean a temporary stoppage of hostilities; I mean taking this out of the politics of the sub-continent so that India and Pakistan are never again in difference about the problem of Kashmir, but that on the contrary, full confidence and co-operation are established between them—is, as I have said before, that we should make a plan here in the Security Council itself and make it the primary duty of the Commission, which I hope will be established very soon, to apply that decision when it gets out to the sub-continent.

On more occasions that one, I have had the ungrateful task of talking about the time factor. But I confess that I think the representative of Syria was wisely advised to recall to the Security Council that it has heard very recently that the situation is dangerous, and that it might turn for the worse at any time. The Indian representative has called to our attention serious raids which he said had taken place. We have had news from the press of a considerable battle with—if the reports and the claims made by one side and the other are true—very considerable loss of life. We have already had a number of interruptions in our consideration of the question. I hope that whatever interruption we have now may be very short. I confess that I agree with the view that whoever from the Indian delegation may have to go home—and I feel sure the head of the Indian delegation will have to go—we should have an Indian delegation left here with whom we can deal if serious developments should occur.

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16. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 243 held on 10 February, 1948

The Security Council is still working in the field of solution by negotiation. It has not arrived at the type of service which is described by Article 37 of the Charter.

Of course, we still hope that it will not be necessary for us to find that there has been a failure on the part of the parties to agree upon terms of settlement. We still have faith that one of two possible conclusions may be arrived at by them.

The first conclusion would be the better ; that is, actually to present to the Security Council terms of settlement upon which they have agreed. But that is not the only solution they could arrive at. They could, if they were unable to agree upon terms of settlement, arrive at an attitude toward recommendations made by our President and Rapporteur for a settlement, provided the Security Council passed a resolution covering that plan of settlement. In other words, the alternative would be acquiescence in a recommendation of the Security Council, notwithstanding the fact that the parties had not been willing themselves to assent to all of the terms of the proposal. The result of our efforts that are now being made might be, then, either agreement or acquiescence.

The Security Council is reluctant to take action that will indicate that it believe that there is no hope in negoitation. Such would be the case, I believe, if we should pass a resolution different from those now pending. The instant business before the Security Council is represented by two short resolutions [*documents S/661 and S/662*] which were proposed by the representative of Belgium during the time that he was President of the Security Council. They have not been disposed of. Until they are finally disposed of, they hold the control of the voting in the Security Council, subject to those procedural votes that have priority or preference.

We have not come to a decision on those resolutions

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because we have continuously debated the situation from the time they were introduced [*237th meeting*] until the present, and we have invariably concluded our meetings with the suggestion that the parties get together and try again. Therefore, we are now in the situation in which we formerly were.

What I have to say about the memorandum presented by the representative of Colombia at the 241st meeting and the appeal contained in document 1 [*document S/667*] submitted by the President today, should not be understood to indicate that the United States favours the adoption of a resolution containing these principles. My remarks constitute an attempt to bring about further consideration by the parties of those principles.

If I were to judge the situation by the record, I should think that it was very promising and certainly not so hopeless as would seem to be indicated. Taking the memorandum submitted by the representative Colombia, and the verbatim record of the remarks of the representative of India, at the 242nd meeting, and referring specifically to parts of it, I would really consider that the means of agreement are contained there. Mention is actually made of principles to govern the parties in leading to specific propositions or proposals of settlement.

On the subject of urgency, about which the representative of Syria inquired, I noticed that the representative of India very eloquently characterized all that we have presented thus far leading towards harmonious settlement of this matter as "trends of opinion"; and observed, if I understood him a right, that urgency is not recognized in those "trends" which, in his view, seemed to disregard the urgency of the situation and to put the emphasis upon a long-range settlement. That is not my understanding of the situation. In fact, the very first sentence in the findings stated in the memorandum submitted by the representative of Colombia reads :

"A. ...the cessation of fighting and other acts of hostility is of a particularly urgent character in the Jammu and Kashmir State." If that is not recognized as an expression of urgency, I do not know how it could be put into language that would express it.

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The point of difference is one upon which I believe agreement can be reached. The question is asked today by the representive of India : "How shall the acts of hostility be made to end ?" I think that if representatives examine this memorandum and the verbatim record of agreement in principle which is contained in the record of the 242nd meeting, they will find a great promise there of agreement in principle upon the method of stopping the fighting.

It was not until a late hour in the debate here that we made the startling discovery that many of the positions taken up by India and Pakistan in the record in the exchange of telegrams had been receded from. On the occasion to which I have just referred, Sheikh Abdullah made a statement that indicated that what he desired—and this was ratified by the representative of India immediately afterwards—as a trend in the Security Couucil towards the termination of hostilities, was that the Security Council should take up a position which would amount to that of an ally in a war, and should pull off Pakistan and allow India to finish the job by force against the tribesmen. That is the very last position which the Security Council ought to take.

If the representative of India refers to that in saying that his delegation has no hope of getting the Security Council to stop the fighting, then the Indian delegation has certainly made an appraisal of trends that is correct, because the trend of opinion in the Security Council is against war. In fact, it is the special function of the Security Council in a situation where there is a threat to the peace or, as in the present case, actual aggression, to make every effort in the first place to bring the matter to a peaceful conclusion by pacific methods and not by means of force. No party coming here to discuss a case like this can expect trends in the Security Council towards the application of force, or towards a solution which would ally the United Nations with one side so that it could be successful in a military attack or defence.

What we are dealing with here is a situation which both parties have declared to be one that threatens the peace of the world, and one which, therefore, the Security Council has

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jurisdiction to consider. Our view, as indicated thus far by trends of opinion, must be clear. I think that there is no confusion at all about the fact that the trend of our opinion, which is not yet in the form of a resolution, is towards a pacific settlement of this matter—an arrangement with terms of such character that they command the respect and the confidence of the parties to the dispute. As I have said, there seems to be no other way of bringing peace to that part of the world than this specific method of agreement between the parties, which involves such management and such control of the plebiscite—to which both parties have assented—as to ensure that everyone interested will know that it is free, fair and just.

There is nothing within our vision that will induce the tribesmen to retire except such an arrangement as that. Nobody has proposed any method save this one suggested by Sheikh Abdullah : "You take care of Pakistan. Make Pakistan stop furnishing supplies, ammunition and weapons, and stop her allowing the establishment of bases in her country ; stop the crossing of her country, and we will do the rest." That is a proposition which is perfectly astonishing.

I hope that when the Indian delegation returns to its country it will make very plain the fact that the United Nations is not engaged in promoting war or taking sides in war, and that the Security Council's business is just the opposite—namely, trying to find a pacific solution of this problem. That is one assurance that can be given, and it is a trend properly appraised, I believe, by the representative of India.

On the other hand, I think that if the Indian delegation leaves this debate and returns home to receive new instructions, it ought to point out as well that the trend of opinion is toward a fair consideration by the Security Council of all the circumstances. There is no reason why the parties to this negotiation should expect favour, one as against the other, in a settlement. There is every reason to expect that the Security Council, if it should have to take this matter in hand and act under Article 37 of the Charter, will make a recommendation

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calling upon both parties to play a corresponding part in effecting the cessation of hostilities and the establishment of condition in which the plebiscite can be carried out.

It is true that the drafts which have been submitted do not necessarily represent assent by every member of the Security Council to every single item. In speaking before, I have indicated my approval of many of the items which appear in both the memorandum of the Colombian delegation and the draft submitted today by the President of the Security Council. But the approval expressed is not final, and we have not closed our minds to a consideration of new proposals and additional amendments. Upon some of these matters the United States has not taken any position. But on the whole do they not clearly aim at a settlement of this matter in which the rights and interests of all parties are taken into consideration ? If they do not, let us take care of that situation. For example, if it is complained that sub-paragraph 4 (*a*) of document 1 [*document S/667*] which was submitted to us today, is a mere abstract proposition, let us amend it and consider suggested changes.

I think that the Security Council trend, as shown by our debate, is to make these principles as useful and as applicable as possible to the situation so as to reach an agreem nt. If these principles are more acceptable when made less general than they appear in document *1*, then the way to remedy that is to make them more specific. For example, added to sub-paragraph 4 (*a*) following alternative B, document 1, could be the words "of any form of a military character", so that air bases, territory crossing, and the furnishing of weapons and other supplies could all be written into such a principle. There will be no trouble if a genuine purpose is shown to arrive at an agreement on the terms of settlement.

Therefore, I hope that when the delegation of India returns to its country, and particularly when the members speak to one of my very dear friends there, it will assure him that one of the trends of the Security Council is toward an equitable, fair and just settlement of this matter which takes an account the rights and claims of both parties which is not by any means restricted to the specific item of the drafts now before us.

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The Security Council is seized of an issue of urgent importance. Nothing new has lessened the urgency of this case since we began the consideration of it.

The answer to the first allegation in the memorandum submitted by the Colombian delegation in the 241st meeting—namely, that the cessation of fighting and other acts of hostility is of a particularly urgent character in the Jammu and Kashmir State—the representative of India said in the 242nd meeting: "After the word 'Finds:', Paragraph A speaks of the cessation of fighting and other acts of hostility as being of a particularly urgent character in the Jammu and Kashmir State. We are entirely in agreement with this, and I hope that the Security Council as a whole is in agreement with it." We think the trend indicates that the Security Council does hold that opinion.

Paragraph B of the Colombian memorandum says: "That in conformity with the policy of the Indian Government that in the case of any statement where the issue of accession has been the subject of a dispute, the question should be settled by a reference to the people, India and Pakistan have agreed that the question of whether the State of Jammu and Kashmir shall accede to Pakistan or to India must be determined through a plebiscite to be held under international auspices..." In regard to paragraph B, the Indian representative said at the 242nd meeting: "Paragraph B speaks of the question of accession being referred to the people. Barring verbal amendments which, if necessary, I shall propose at the proper time, it seems to me that the substance of this paragraph is worthy of serious examination. It speaks of a plebiscite to be held under international auspices."

Then we come to paragraph C, which states: "That the plebiscite as a method of determining the future status of the Jammu and Kashmir State is the most desirable and democratic, provided the will of the people is given free, fair and unfettered expression." There is an issue here, but it is not at all hopeless.

I shall read what was said by the representative of India: "Paragraph C seems to go rather beyond the jurisdiction of the Security Council. It refers to the plebiscite as being a

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method of determining the future government of the Jammu and Kashmir State, but I do not think any suggestion has been made that the future government of the State should be determined by means of a plebiscite. Our own proposal is that a national assembly, elected on the basis of adult suffirage, should frame the constitution of the State".

I think that is a very hopeful situation. I think the members of the Security Council should consider most carefully whether they ought to insist on any such proposal.

I want to say that I fear my own position here has been misunderstood. When I spoke about an interim government, I only envisaged that much control of the machinery of government as is necessary for the limited time and purpose of holding a fair plebiscite ; that is all. My own position does not relate to the future government. I can think of many ways in which that situation might be handled without the least derogation of the present interim Government's life or powers, except for that special purpose ; and that is a purpose which I believe both parties desire and which all the world would be glad to see pursued.

As regards paragraph D, the representative of India said, among other things, the following, and I am not reading it all: "We should, therefore, be willing to consider paragraph D if it were so modified as to indicate that the early establishment of a government reflecting the will of the people of the Jammu and Kashmir State is essential to the attainment of the aims and purpose of this scheme."

Paragraph D states—and I do not know why it could not be changed according to that doctrine and principle : "That an interim administration which will command the full confidence and respect of the people of the Jammu and Kashmir State is essential to the attainment of the aims and purposes of this resolution".

I repeat that so far as the Security Council's jurisdiction over this matter is concerned, I have never envisaged any control over the internal government of Jammu and Kashmir longer than is necessary to accomplish that much-desired purpose of a fair and free plebiscite.

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I have taken a good deal of time on this matter because I hope that if this delegation returns to India, it will go, not with discouragement and with a feeling that it has been prejudiced by these trends that have been indicated, but that there is actually every hope in the world for achieving an agreement that would be approved by the Security Council ; it is really up to the parties, provided we do not have to get into Article 37 of the Charter. I hope we shall not have to do that.

Should the Security Council, being seized of this very serious and urgent question, adjourn its consideration of the item ? Whether or not we should adjourn consideration of the item is a serious question. We might be required to take up an emergency situation that will come to us tomorrow. If we had adjourned, what would be our situation ? If the whole delegation returned to India without any notice that we had the intention to hold ourselves able to act in an emergency, could we act ; would we act ? I think we should make such an arrangement of this matter as will accommodate the Indian delegation but which will also preserve this great objective that we have of preventing further aggression, of preventing further threats and of stopping the hostilities, all of which as we see it, requires agreement. Without agreement, there is nothing we can do under Chapter VI of the Charter which will accomplish that objective.

We wish to accommodate the Indian delegation, but I think we should say, without equivocation, that in their much-regretted absence the Security Council holds itself in a position to act upon any emergency that might arise during the time they are necessarily absent.

My own view is that the Security Council would make a better record if we would recognize the necessity and convenience of the delegation of India to return home for the purpose that is stated in the letter from the Government of India, but if we would not adjourn this matter, and would hold it *in statu quo* and keep it there for two weeks, which is long enough, or perhaps three weeks.

I think that asking the Security Council to hold this matter in abeyance, subject to emergency, until 15 March or

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20 March, is too long, and perhaps has more significance to the outside world than the delegation of India would like to give it. I am sure that India wishes to have everyone who knows about this transaction understand that what they are about to do is in the direction of a pacific settlement of a situation that threatens the peace of the world.

I conclude by expressing the urgent wish that we can arrive at this accommodation by an agreement to the effect that this item will remain on the agenda without consideration by the Security Council for fifteen days, unless there is a situation that requires the Security Council to act.

17. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 244 held on 11 February, 1948

This debate is taking place at the request of the delegation of India for a deferment of our work. It raises, I think, some important issues for the Security Council. I wish to make, if I may, a few preliminary remarks before I come to my main statement.

The first of my preliminary remarks is about the principle of the deferment of the work of the Security Council in a situation or dispute which threatens war. I feel sure that, in spite of the powerful observations which I am about to make, the Indian delegation will in fact go home. The members of that delegation will go home with the friendship, the understanding and the good wishes of the Security Council, and with our hopes for their early and profitable return. I am now speaking of the principle of deferment and not with any relation to our present case. It is very serious matter that, while a war is going on, while men are being killed, the Security Council should suspend its work which is designed to bring the fighting to an end.

I find it difficult to believe that in the early days of the League of Nations, while the Covenant was still being taken seriously, the Council of the League would ever have agreed to such a course. We were hoping that this Security Council,

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by the very fact that it is permanent, would be more effective for this purpose than the Council of the League. Of course, we recognize that there must sometimes be intervals when delegations must consult the Governments which make the decisions at home. We are more than grateful for the assurance which was given us by our Indian colleague yesterday afternoon, He is making no attempt to break off this affair and to withdraw the matter from the Security Council, but he is coming back as soon as he usefully can. We all agree that the item stands on the agenda. It is a matter of course. We are all agreed that, if developments should make it necessary, we shall proceed. That is a matter of course, and India will be represented, as our colleague told us, very well. We are all agreed that we must resume the question soon. The question is: how soon? I should be the last man to desire to express a firm view if the visit which is to be made to New Delhi will advance the cause of peace. But, as I am at present advised, it seems to me that the shortest period as yet proposed in the Council—the Chinese representative's fifteen days—is extremely long and the longest to which we ought now to agree, because this is a serious matter.

The representative of India told us yesterday that a battle was taking place in which 14,000 men had been launched against the positions of the Indian Army That fact shows that large forces are now engaged. It is a big concentration. In any campaign, that would be a considerable engagement. Therefore, I hope—and I am sure that our Indian colleagues will do their best to justify the hope—that they will return to us not necessarily at the end of the period which, in its wisdom, the Security Council may decide, but at the earliest moment when they see their path clear before them to useful work.

I want to add that I hope that what is being done today will not be taken as a precedent for future cases. I think that is a matter of the highest importance. While there may be every justification for what the Indian delegation has asked, and to which we shall agree, there might, in another case, be no justification at all. That is why I hope it will be firmly established that this is not a precedent which can be held to

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bind the Security Council on any future occasion that may arise.

Secondly, I want to make a very brief amplification of what I said yesterday about the draft resolution presented by the President and the Rapporteur [*document S/667*], out of which this request for adjournment has arisen. No one has asked that the Security Council shall vote on that draft resolution ; no one is going to ask it. The Security Council, as I think, has given it a broad endorsement. But I venture to think that supposing we had voted on it, supposing we had made a formal decision, of course it would still have been open to the Security Council to make amendments to it, to make additions or deletions either by agreement of the parties or to meet the view of one of the parties which we though was, well founded

Of course, it is not a binding document. If it had been voted, it would not be a binding document ruling out everything else. It could be changed or added to in any way. And, of course, not every member of the Security Council is in agreement with every detail that appears in the resolution. In my experience, that is always true in every document agreed to by any democratic body. I do not know what the experience of other members of the Security Council may have been in their respective parliaments at home, but I doubt if I have ever voted for a bill in the House of Commons of which, in all its details, I approved. But broadly, we think this is a good and reasonable basis of discussion. For my part, I would have thought the same of the memorandum presented by the representative of Colombia at the 241st meeting, of which the representative of India spoke some favourable words the other day.

Thirdly, in taking the view of the draft resolution submitted by the President and this Rapporteur or of the memorandum submitted by the representative of Colombia, I am sure that every member of the Security Council has acted according to his conscience and with absolute impartiality between the parties. The members of the Security Council have no reason in the world to do anything else. With equal

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understanding and equal friendship for two great peoples, they have sought to do equal justice to them both. And as they have begun, I am convinced they will go on to the very end of all our work.

I now come to one or two of the important matters which were raised in the Security Council yesterday afternoon. The representative of India, with the courteous firmness which he always shows, told us that he wanted us to do more about clauses 4 (*a*) and (*b*) of the President's resolution. He said that he wanted drastic action taken by Pakistan to stop the fighting. We all want drastic action taken by Pakistan to stop the fighting. He said that India wanted those two clauses I have mentioned in the President's draft resolution to be much developted. We all want those two clauses to be much developed. For my part, I could write a long essay on the subject.

He said that he wanted specific obligations to be laid on Pakistan about the tribesmen, about the volunteers from the Punjab and about the other matters which he mentioned. We all want obligations, as specific, as comprehensive, as the Indian delegation could desire.

India wants a demand made on Pakistan that its obligations be accepted and carried out. We are all quite ready to make that demand, but India wants that demand made now, at once, as the sole action of the Security Council, irrespective of everything else we may have to do, and if I understood him rightly yesterday the Indian representative said : "This is our task and other matters which have been raised, if not wholly irrelevant, are at least matters which can wait for a considerable time. We must," he said, "concentrate now on stopping the fighting."

That is the point—stopping the fighting. Would it stop the fighting if the Security Council did what he desires ? Everything lies there. Suppose we put this demand to Pakistan, and put it now. Would the inhabitants of Poonch and Mirpur and Riasi lay down their arms ? Wouln the volunteers from the West Punjab go home ? Would the tribesmen obey the summons of Security Council and go back to their barren uplands, or would our action have exactly the

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opposite effect? Would the tribesmen in their tens of thousands—the tribesmen, who, many of them, have hitherto been persuaded to stay at home—come flooding down to conquer Kashmir, as they believe they can?

I have constantly argued that that is the danger, perhaps a moral danger, to all concerned. The Indian representative brought some evidence to the Council chamber the other day. When that evidence was taken as a whole it supported, and very powerfully supported, what I have just said. It showed how grave the risks might be, how swift and disastrous the results might be, if the Council made a mistake and acted unwisely or intemperately at this dangerous time.

How can the Council help the Indian delegation to bring the fighting to an immediate stop? We have said very often: by getting a general settlement of the whole Kashmir affair... I think it was the representative of the United States who put it first in our debates. He said at the 240th meeting:

"It is my opinion that, if and when the Security Council deals with this problem, it must consider it as a whole, becaase unless it does, there cannot be a cessation of hostilities. How is it possible to induce the tribesmen to retire from Jammu and Kashmir without warfare and without driving them out? That is the only way it can be done, unless the tribesmen are satisfied that there is to be a fair plebiscite assured through an interim government that is in fact, and that has the appearance of being, non-partisan."

The representative of China put it, as I thought, in wise and cogent words at the 243rd meeting when he said:

"If you agree to a plebiscite, it must be a free and impartial plebiscite. Furthermore, ...the announcement and the establishment of a scheme of a free and impartial plebiscite would be the most potent means to pacify the Muslims and the tribesmen. I cannot think of any other way of carrying across to the people in revolt the message that it is unnecessary for them to resort to violence; and that, for their own good, they should stop volence as early as possible, because they will have a fair chance to decide their own future."

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I endore those sentiments and I venture to think that even the Indian delegation have given them some support by putting forward, ten days ago [*236th meeting*], a complete scheme of settlement which covered the restoration of order, the question of military occupation, the organization of government and the carrying out of the plebiscite.

I think the Indian representative retreated a little from that position yesterday afternoon and, indeed, some doubt has been cast on what the Indian delegation really wants. It has been asked : "Are they desiring to make this demand on Pakistan, regardless of the consequences to be achieved, on the basis of *fiat justicia, ruat coelum* ?" Are they saying, "If this may mean war, let there be war" ? I do not believe it.

It has been suggested that they want action which will shorten and make less costly the action of the Indian Army ; that the Indian Army could then finish off the rebels and drive out the tribesmen and volunteers from Pakistan. Perhaps if the Security Council did what the Indian representative desired, it might have that result, though I doubt it.

But even if it did make it a little less long, a little less bloodly, it would still be a long and bloodly business. What would be infinitely worse is this—and this is what both delegations and the Security Council must bear continually in mind—that it would make the hope of real friendship between India and Pakistan, lasting friendship for the years to come, less than it is today. I do not believe, I cannot believe, I will not believe, that this is what India really wants. They must want the full stoppage of the fighting at the earliest possible time ; they must want the people of Poonch and Mirpur, the volunteers, the tribesmen, to stop their action because they believe they safely can do so.

Why can we not make the settlement now which the members of the Security Council desire ? Why does the Indian representative suggest that a plebiscite, which he admits is not irrelevant, is nevertheless a matter which could wait for a considerable time ? Why does he call them, as he did, "long-range problems" ? I think it would be a disaster both to India and to Pakistan if we so regard them. What is long-

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term about them ? Why should it take long to make a settlement ?

The Indian delegation have no doubt given consideration to the matter during the past month. The Security Council has given consideration to it over a considerable time and they produced their scheme within a matter of days—two days if I remember rightly.

We start from a very strong position. Both sides want a fair plebiscite. It is contrary to common sense to think that a Government would come to this table and talk about a plebiscite that was not to be fair. Our problem in the Security Council is that to make all parties, including Pakistan and the Kashmiris now fighting against the Indian Army—whom the Indian representative admitted to be parties the other day regard the plebiscite as fair.

I do not think that ought to take months and months. Why should it ? I was very much struck by some words used by the Indian representative yesterday afternoon. He said, towards the end of his speech :

"On the occasion when the President handed this draft resolution to me, all I tried to persuade him of was that we had spent about a month in talking about generalities. Let us come to brass tacks ; let us consider concrete proposals : let us sit down from day to day, hour after hour for the next four or five days and formulate concrete action to be taken. That would be time well spent. However, if we now are going to discuss merely general principles of this sort, get them through the Security Council, and later on begin to sit in order to consider concrete steps—in themselves matters which will involve points of controversy..." he felt that the Indian delegation had better do what it now proposes.

Those observation make me feel, firstly that I was right yesterday afternoon in suggesting that if we do not have an interval in our discussions, it should be used by our President and our Rapporteur in trying to evolve a much more definite, concrete scheme : and, secondly, I am bound to say that I—and I think most members of the Security Council—had hoped that discussions of the kind described would have

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happened in the last interval between 6 February and 10 February, a period of nearly four days when we broke off for that very purpose.

But even now, in my view, it is not too late to do this. Why should not the delegations of India and Pakistan, the President and the Rapporteur sit down this afternoon and begin to hammer for four or five days on end at the real causes of disagreement? I think they can usefully do it on the basis of the draft resolution presented by the President and the Rapporteur. I do not think that would in any way prejudice the position of the delegation of India. If it were desired, I think the memorandum of the representative of Colombia also could be put in as a basis of debate.

Whatever the basis, of course, the hands of the Indian delegation would be free : but I think it would be a tragedy if the representatives of India were to go back to their country without having, in their own words, "thrashed out the difficulties, the real differences that remain," and without understanding fully, on one side and the other, all that is in mind.

There is nothing irrevocable about an aircraft ticket. There may be something irrevocable in the departure of the Indian delegation. Who knows what may happen while they are away? I say, with all respect, that delays and hesitations have caused more unwanted wars than all the other factors in the world, wars that Governments had not planned, wars on which the Governments and the peoples look back with harsh regret.

I believe this is a short-term, an urgent and, as politics go in 1948, an easy problem. I am sure that if the delegations could get back to the spirit of Independence Day five months ago, they could settle these issues without delay. As I said two weeks ago, they have settled by joint action problems far more difficult and far more terrible than this. In this, form should be nothing ; spirit should be all.

On Independence Day the cabinet of the Government of India made a declaration in which they said : "We proclaim that we as a nation and a people stand for world peace and

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co-operation among nations. We stand for democracy. The method of democracy is to find peaceful solutions for all problems. By violence and hatred, no problem is solved."

Let both delegations take those noble phrases as their programme; then our work will soon be ended and lasting peace and friendship will be assured.

18. Text of the Speech made by Mr. Lopez (Colombia) in the Security Council Meeting No. 245 held on 4 February, 1948

This debate, I believe, is practically exhausted. There is indeed very little that anyone can usefully add to the presentation that has been made by the representatives of India and Pakistan of their respective cases and to the very well informed discussion that has taken place in the Security Council. But should like very much to have some clarification on those points, which I am sure will leave the Security Council with the impression that in our labours since yesterday we have made very good progress in obtaining a clearer understanding of the present position.

I shall first mention this point: Yesterday, the Indian delegation requested a deferment of our discussion. The Indian delegation stated that it had been invited by its Government to return to India in order to have a more thorough discussion of the situation as it found it in the Security Council today and then to determine its attitude. The Indian representative among other explanations, made this statement: "The question of whether any one of the present members of the delegation should be left behind, or somebody else should represent India at such meetings or on such occasions, is—I hope the Security Council will agree—an internal matter to be settled by our Government. We shall do the best we can in order to see that the Security Council's work in connexion with the Jammu and Kashmir question, should any such emergency arise, is not inconvenienced thereby. "A little before that statement the Indian representative said: "As long as this item is on the agenda, India is under an obligation to see that any inquiries

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made in regard to any emergent situations are answered by someone who has full authority to speak in the name of India. If it so happens that the Security Council holds a meeting for the purpose of discussing any such emergent situation, India certainly will make arrangements to be properly represented at such a meeting."

My first doubt is just that: Are we going to stop discussing the Jammu and Kashmir question until the Indian delegation finds it advisable to return to the Security Council? And in the meantime, are we going to restrict or limit our discussions to what the Indian representative would call an "emergent situation"? Or, once we stop discussing the Jammu and Kashmir question, is the Security Council going on with the discussion of other matters that have been brought to its attention by the delegations of both India and Pakistan, not as matters of the same character of urgency, but all the same as matters that have enough urgency in the mind of the Security Council not to be postponed indefinitely until such time as we have completed our discussions of the Jammu and Kashmir question, after the Indian delegation deems it advisable to come back?

That, I believe, is a rather important point that has not been brought to the attention of the Security Council. I think it is very important because it places the Pakistan delegation at a great disadvantage, unless I am very much mistaken in my understanding of the present position, which I take to be that the Indian delegation will return to India without giving us very definite assurance as to when and how they will return. And the Pakistan delegation, I take it, will remain with us in the meantime.

Then, another doubt arises in my mind. What is going to happen in Jammu and Kashmir in the meantime? Is the fighting to continue? Will the Indian Government be free to carry on its military operations? Does the Security Council expect, by any chance, that two, three or four weeks from now, it is going to renew its discussions at the political or at the military level at which it discontinued them?

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I have a third rather serious doubt. This morning, the representative of the United Kingdom wanted it to be very clear that we were not establishing a precedent by agreeing to the adjournment requested by the Indian delegation. He was rather emphatic about it. He wanted to be sure that we were not establishing a precedent. I should like to ask very respectfully : Does anyone really believe for a moment that we shall not be establishing a precedent ? Once we agree that any delegation which comes before the Security Council with a case of this importance can, at any stage in the proceedings at which they see fit, say that it wants to go home, and can request an adjournment, can anybody hereafter labour under any misapprehension as to the fact that the Security Council has established a precedent from which it will never be able to get away ? Not only that, the precedent is an extremely serious one. It is as serious as anything that has come to my knowledge while I have been a representative on the Security Council. It is something that, in my opinion, threatens the very stability of the authority of the Security Council.

We have been discussing several proposals, and we are now practically in agreement—if this is not the understanding, I should like to be corrected, because, I repeat, I believe the matter is of the utmost importance—with the idea of granting what is apparently a reasonable request : that the Indian delegation should have a kind of option on the action of the Security Council. We have discussed with them the different proposals that have come before the Security Council ; and just because we were labouring under the understanding that they both wanted us to help them to reach very promptly a friendly agreement, we have departed from our usual rules of procedure. The different proposals or suggestions that have come before the Security Council have been discussed with the representatives of India and Pakistan through the medium of the President of the Security Council. Now, at this point, six weeks after the start of our deliberations, with nothing new having come up in the meantime, the representative of India says : "I have been instructed to go home to discuss this question. I am going to inform my Government of what the trend of opinion is in the Security Council."

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The Indian delegation knows reasonably well now the opinion of the majority of the members of the Security Council as to what should be done. That opinion has been incorporated in the different draft resolutions and memoranda. It has been discussed with the President of the Security Council, acting on behalf of the Security Council, and the action of the President, in his negotiations with the representatives of the two parties, has, time and again, been endorsed by the Security Council.

Now, when all this has been done, the Indian delegation comes to the President of the Security Council and says: "I request that I be allowed to withdraw to India to discuss the situation with my Government." What will be the position if, after they are gone, they inform the Security Council that the Government of India does not agree to the proposals that have been discussed with them and which represent the point of view of at least a very large majority of the members of the Security Council? Is this or is this not a serious precedent in our work?

Up to the present time it has been the rather unfortunate experience of this Organization and every one of its organs to have its recommendations or decisions on most important points substantially disregarded, disregarded after the organs of the United Nations have made every possible effort, by compromise, to guard against that eventuality. That is what, in the mind of the Colombian delegation, accounts for the decreasing interest of the public in the work of the United Nations.

Unfortunately, it is true that far from being eminently successful, as everyone expected the United Nations to be after they had been so repeatedly assured of the backing of the great Powers, we have been eminently unsuccessful. But, after all, everyone is generally in a hopeful frame of mind and we all continue to work in the expectation that condition will improve, that our work will become increasingly useful, and that we shall be able to recoup the interest and prestige in our work which has been lost.

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However, I feel very deeply concerned—I hope I am wrong—when I think of the implications of what I consider to be the option that will be granted the Indian delegation in this matter. Article 24 of the Charter says: "In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf." This has been my understanding right along, and it was this that we tried to reaffirm in our proposal.

It seems to me quite obvious that it follows that the decisions of the Security Council cannot be made conditional, as we are, to all intents and purposes, making these proposals when we agree that the Indian delegation should go back home and return within two, three, four or five weeks to inform us whether or not they are acceptable to the Indian Government.

I do not believe that I have to impose on the patience of the members of the Security Council in order to establish the reason for my doubts, my preoccupations and my concern. We started this discussion with the understanding that both India and Pakistan had come here, not only willingly, but with a sincere desire to have the Security Council help them to reach, as I said before, a friendly agreement. When the question of the Commission was discussed, perhaps the members will recall, there was a very brief argument as to the membership of the Commission and as to how the Commission should be appointed.

The representative of the Union of Soviet Socialist Republics, if I remember correctly, did not share our view that the best way to appoint the Commission was the one we adopted—that is, that each of the two parties should appoint a member and they should appoint a third member. If my memory does not fail me, the representative of the USSR pointed out that it was advisable that the Security Council be represented in that Commission and that the Security Council should take a larger, stronger hand in the appointment of

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that Commission. Then, very superficially guided by my first feelings, and sharting the optimism of the Security Council, I said : "No, this is the best way. They have come to us ; they are willing to agree. This is the way they suggest ; this this is the best. This is the one they will accept." However, from the moment that the Commission was decided upon, I have had a feeling, and I venture to say that I am sure that every member of the Security Council shares that feeling;—Mr. Austin very properly pointed it out yesterday—that the two parties have been receding all the time from their original positions. That is why they have not come to an understanding—because it is too obvious that, with the help of the Security Council and with our willingness to co-operate with them, if they had persisted in their original attitude, we should have reached by this time some sort of an agreement ; but we have not.

I do not find that, at the moment when the Indian delegation requests this adjournment, any new thing has come up that we have not been discussing here There is no new subject ; there is no new situation ; there is no new proposal. On the country, the record shows that, from the moment that the Security Council did not agree to take the one action that the Indian delegation wanted—action to stop the fighting without taking action on the plebiscite—they have been gradually coming to the point at which they have arrived. On two or three occasions at the end of a week we have agreed that the President of the Security Council should continue conversation with two parties, and, at the beginning of the following week, in each instance, we have been informed that no progress had been made ; the last time, not only that no progress had been made, but that the Indian delegation wanted to return to India.

I do not know if I should be justified in embarking upon an examination of the memorandum submitted by the Colombian delegation at the 241st meeting. I believe that the debate, as I said before, is exhausted ; but I believe it would be useful if the President will allow me the privilege of considering that this memorandum has been formally submitted to the Security Council as a draft resolution.

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There are several reasons that have induced me to take this action which all the members of the Security Council know I was not anxious to take. As a matter of fact, not feeling sure, as I do not yet feel sure, that I understood the implications of the case, I submitted that memorandum as a contribution to the conversations of the President of the Security Council with the two parties. I do not feel that I can claim that this is my memorandum, because substantially it is not. To use a familiar expression, it is a kind of a rehash of things that have already been presented and discussed here, viewed from a different position and a different angle. I shall deal presently with that angle. However, I do wish to say this: If I were asked for evidence of the impartiality of the Security Council, of the goodwill of the Security Council and of its unprejudiced attitude in this matter, I should point out that the latest memorandum submitted by the President of the Security Council and the Rapporteur [*document S/667*] has been substantially accepted by Pakistan, and that the memorandum that I have submitted has been substantially accepted by India.

The President and the Rapporteur and I have had no substantial difference of opinion. We have all been contributing in the same spirit, exchanging views and advancing our tentative proposals simply as contributions to the understanding that we were expecting between India and Pakistan. That has not come about, much to my regret and, I believe, to the regret of every member of the Security Council. Now I believe that it is pertinent to give one or two explanations which I thought unnecessary last week.

The draft resolution [*document S/671*] reads :

"*Whereas* India and Pakistan have brought to the attention of the Security Council the situations in the Jammu and Kashmir State and other Indian States which are likely to endanger international peace and security ; "—that is a fact, and there is no argument about it—"and

"*Whereas* the Members of the United Nations have conferred on the Security Council primary responsibility for the maintenance of international peace and security, and

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agreed that in carrying out its duties under this responsibility the Security Council acts on their behalf...", That is from the Charter, but in view of the [considerations which I have enumerated before, I did not think it was superfluous to insert that provision of the Charter here. The document goes on to say :

"*The Security Council*,

"*Having considered* the claims and allegations of India and Pakistan and their requests to the Council to adopt appropriate measures for the pacific settlement of their disputes and the restoration of friendly relations between the two countries,

"*Finds*:..."

There has been some question here as to which of the provisions of the Charter applies to the present case. In the view of the Colombian delegation the best thing to do as the case stands today is to discuss the problem under Article 38, which is the last of the six Articles of Chapter VI regarding the pacific settlement of disputes. Article 38 reads :

"Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute."

I emphasize the words, "without prejudice"—to any other Articles of the chapter. But one point which is very important in this situation is the fact that we are authorized under the Charter to take action under Article 38 because we have been requested by the parties to make our recommendations. That is one position which we should not lose. The Security Council has to stand on the fact that this dispute was brought to its attention by India and Pakistan, and that they requested it to take appropriate measures to settle the dispute by peaceful means and to restore friendly relations between them. I may say, in passing, that is the principal reason why I differ with the memorandum presented by the President [*document S/667*]. I hesitate very much to differ with men who are more familiar with this question than I am, the more so in a dispute of such world-wide importance as this. Nevertheless, it seems to me that we cannot move from the facts and

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the Charter to any declaration of principles by the President of the Security Council. That would be weakening our fundamental position as set forth in these three paragraphs of my resolution and in the Charter. I apologize for speaking my mind so frankly, but I believe that we should be guilty of a great political mistake if we were to move out of that situation to a declaration of principles more or less subject to the approval of the Indian Government. That is my sixth or seventh doubt in this question.

Another difference is that I have been in favour of increasing the membership of the Commission to five, one member to be selected by India, one by Pakistan, and the other three appointed by the Security Council. The reason for that, as briefly stated in my resolution, is, "That the Commission established by the resolution of 20 January 1948 [*document S/654*] will have to perform with the utmost dispatch various and complicated duties which call for a more numerous membership," but there is a great deal that I feel I can add in favour of increasing the numerical strength of the Commission. First and foremost, in a situation like this, the Security Council should be in a position—as this draft resolution provides—to call for and to receive from its chosen representatives, for its information and guidance, direct reports of conditions in the Jammu and Kashmir State and other parts of India and Pakistan.

So far, we have been working on contradictory reports that we have been getting from the representatives of Pakistan and India, who generally contradict each other. After that, the members of the Security Council come to conclusions without their own means of verification. This in no way implies that I doubt the sincerity or the truthfulness of the reports submitted by the representatives of India and Pakistan, although those reports are contradictory.

I submit that we should have a representative Commission on which we can depend, and on which we should be at liberty to call it information and guidance, the more so if it is the intention of the Security Council to carry out the idea of having a plebiscite under the authority and supervision of the

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Security Council. It is inconceivable to me that we should undertake that responsibility without being directly and sufficiently represented on that Commission.

There are many more good reasons that I might adduce, but I shall only advance one more in this regard. Assuming that the two parties name their representatives to the Commission and that they do not agree upon the third member of the Commission, where shall we be? Increasing the membership of the Commission is—among many other things—the assurance we are going to have that there will be a Commission. The Security Council will have to decide upon the proper time to get the Commission into action—when to send it to India—and to decide upon its functions.

However, having established this Commission already by the resolution of 20 January 1948 [*document S/654*] I believe that, in the light of what has transpired in the Security Council and in the light of what the Commission has to do, as well as the fact that it is one of our primary purposes to have the plebiscite carried out with some sort of intervention from the Security Council, the Commission should be increased to five or seven members, as the Security Council may decide.

Otherwise, I would say that I do not find very substantial opposition to or difference with this memorandum in the remarks of the Indian representative. We should be able to come to a satisfactory arrangement within a reasonable length of time, in view of the co-operative spirit with which we have tried to help India and Pakistan in this emergency.

I may be entirely wrong, but I have a feeling—as I have stated many times—that these doubts call for a considerable clarification; that unless we know exactly what the position of the Security Council is going to be, we should not take action under the stress of the circumstances Speaking more concretely, I refer to the Indian delegation having booked passage to India.

It has already been said many times before that a railroad ticket or an airplane ticket can be cancelled or transferred. Without in any way trying to be disagreeable—I hope that there is no question in the mind of the Indian delegation that

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I want to be—I should also like to suggest a second contribution to the pacific settlement of this dispute. In reciprocity for the consideration that we have shown the Indian delegation, we would expect that the Indian delegation might see their way clear to waiting one, two, three, or four days, or at least until we settle this point of our discussion. It is extremely important, in any case, that the Indian delegation should not leave without having a clear statement of the position of the Security Council *vis-a-vis* these questions I have submitted, as well as others that have been submitted by other members of the Security Council ; and that if they choose to do so, it will be with the understanding that we are going to continue with our work.

19. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 245 held on 11 February, 1948

I find myself in a certain difficulty. I am going to speak exclusively on the draft resolution, but I must refer—I hope the President will not think I am out of order—to some observations made by the representative of Colombia a little earlier. He said then that it was no good my saying, as I did this morning, that we are not making a precedent. He said that if this happens, we make a precedent whether we want to or not. Now, I shall explain exactly what I meant.

I begged the Indian delegation to stay for three or four or five days to see if we could not do this hammering out of concrete details, at least until we understand the points that are at issue. But if they decide to go, we understand that they are doing it in full good faith. We know that they are doing it for reasons which we all respect ; we know that they are doing it because, in their sincere belief, they think it will advance our work. The thing happens.

What I wanted to ensure was that there should be an entry in our record which made it plain that we were not according any future delegation the right to do the same, so

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that in another case, no one could come and say: "You are bound to do this because it has happened once." Now, I admit that the representative of Colombia is entitled to say: "You cannot help creating a precedent because if it has happened once, it is more likely to happen again, and the next person who asks for an adjournment will be in a stronger position to say that he must have it."

I am bound to admit, in honesty, that there may be cases when it is desirable for a delegation, or for the head or a member of the delegation, to go home to talk to his Government. I think, and I have tried to make it plain, that this is a very unfortunate case for this to happen in for the first time. There had been fighting in Kashmir for two months—November and December—before this matter was laid before the Security Council, and before the letter [*document S/628*] was sent. We have now been two months dealing with it. Our first effective meeting was 15 January. But if we accepted the resolution submitted by the representative of China, and made it a date earlier than some people have mentioned—earlier than the Indian delegation has suggested, or the Ukrainian representative suggested just now—even if we made it 1 March, that is another two months' fighting after the submission to the Council had been made.

We cannot deny that it is a serious matter. For my part, I am embarrassed to answer any part of the speech made by the Colombian representative this afternoon. I want to read it in the record tomorrow morning, and to study it with the care which it deserves. But as a constitutional argument, I think no one could doubt that it was very powerful.

What then would I do? I would say to the Indian delegation: "I wish you could have stayed. If, for the reasons which you feel important, you think you must go, we must be free to go on with this work if we think it is necessary." We must be free to work out a detailed scheme, as I said this morning.

I hope the President and the Rapporteur are going to get on with it. But I should be gravely doubtful whether it is really right—I say this with great respect to the representative

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of China, and I understand the very powerful reasons which made him put forward his resolution—to put a resolution on the record on this matter. I am not sure we had not better just let it happen.

Mr. Parodi (France) (*translated from French*) :

At this stage, an unknown factor seems to have entered our discussions, which makes it difficult for the various delegations to take a decision on the draft resolutions before us. I mean the request made to the Indian delegation this morning to postpone its departure for several days, and I believe that this request has been reiterated by the United Kingdom representative.

The decisions we eventually reach may perhaps be slightly modified by the reply made to this request. I shall therefore confine myself for the time being to some brief remarks and to one suggestion.

On the whole, I share the views expressed by some of our colleagues, to the effect that the interruption of our discussion to which the Indian delegation's decision has given rise is somewhat regrettable.

On the other hand, as I said yesterday, since the Indian delegation has informed us that it feels obliged to consult its Government, we are bound to take this into account, especially as we are trying, and will try to the end, to achieve agreement between the two parties concerned.

Nevertheless, it is certainly regretable that the Security Council's discussion of the essentially urgent question before it should be thus interrupted.

The suggestion I wish to make to the Council (which might possibly be combined with the draft resolution submitted by the Chinese representative) is, in the first place, that we should not allow the interruption of our discussion of this question to become a waste of time ; in the second place, that the decision already taken by the Security Council in its resolution of 20 January, the decision to set up a commission, should not be lost sight of.

The Security Council has taken a step and made a decision. It should not now give the impression of going back

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in any way on the decision taken on 20 January to set up a commission.

Although we might consider interrupting the Council's work on the Kashmir question for a certain length of time, since we have been asked to do so by the Indian delegation, I think we should ask the representative of Pakistan to get his Government to make its choice of the State which is to serve on the commission, in order that the two States chosen (since the first has already been designated by the Indian delegation) may co-opt the third country, and that the commission thus constituted may be able to function.

The delay of several weeks which we are asked to accept would approximately correspond to the time necessary for setting up the commission, which might perhaps meet here, and for this commission to make arrangements to go to the spot, if this were required.

If fully realize that when the Indian delegation resumes contact with its Government, it may report to us new facts which may (on the most favourable assumption) make it unnecessary to send the commission.

In that case, I think we would congratulate each other on the outcome and would not regret having inconvenienced the members of the commission for a few weeks.

If, however, as is, after all, most probable, a reason for the commission's existence still remains after the Indian delegation has returned, we shall, at least, have put the commission in a condition to function. The requested delay will represent a period of effective work done by the Security Council, which will have carried out a resolution taken previously and will not really have lost time, since the intervening period will have been devoted to implementing the resolution of 20 January.

That is the suggestion I wish to make to the Security Council.

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20. Text of the Speech made by Mr. EL-Khouri (Syria) in the Security Council Meeting No. 245 held on 11 January, 1948

I notice that the request of the Indian delegation for adjournment was based on the draft resolution which was prepared by the President and the Rapporteur. This draft resolution is confined only to the situation in Jammu and Kashmir ; it does not cover the other points which appear under item 2 of today's agenda. The draft resolution just submitted by the representative of China refers to item 2, which is composed of three topics. One of these topics which has been so far discussed is the situation in Jammu and Kashmir, but the other matters are also included in item 2. I believe that the representative of China intends only that the deferment should be made on the subject for which the adjournment has been requested—that is, the discussion on the situation in Jammu and Kashmir. It does not cover the other points in item 2—for instance, the point in topic (*b*) and the point in topic (*c*) : the letter from the Minister for Foreign Affairs of Pakistan concerning other claims [*document S/655*]. We agreed to discuss and to dispose of the Jammu and Kashmir situation first, and when we had finished that, to pass on to the other topics under item 2. The other topics are now covered in the draft resolution of the Chinese delegation by the use of the expression "item 2". For this reason, I think, if we are to put this draft resolution to a vote, that we should change the wording to "the further consideration of item 2 (*a*)" —that is, the topic (*a*) which would be deferred now according to the request of the Indian delegation—thus leaving the Security Council free later to take any action on the other topics, so as not to waste time in waiting if we can achieve anything or make progress in the other matters.

21. Text of the Speech made by Mr. Lopez (Colombia) in the Security Council Meeting No. 245 held on 11 January, 1948

I regret that I have to tax the indulgence of the Security

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Council in support of my point of view, which is opposed to this draft resolution. The representative of Syria has just said that this request is based on the draft resolution submitted by the President and the Rapporteur to the Indian delegation. I contend that the letter of the Indian delegation [*document S/658* does not say so. In conveying the request of the Indian delegation, the letter says :

"In view of the fact that some of the proposals in the draft resolution" —it does not specify which—"differ fundamentally from submissions and suggestions made by you on behalf of the Government of India, Government wish to discuss the whole position with you and your colleagues of the delegation personally before determining their attitude towards these proposals." It goes on to say, "Government therefore desire you to request the Council to adjourn proceedings in order to enable you to return immediately to New Delhi for consultation."

Thus the original request, as it stands, is to have the Security Council adjourn the proceedings because some proposals—we are not told which—differ fundamentally from the submissions and suggestions of the Indian representative. I do not want to insist too much, but I believe it is worth while and necessary to point out once more the extreme care with which the Indian delegation has insisted, all along, that the Security Council should accept its submissions and suggestions. When we did not agree with the members of the Indian delegation they actually withdrew from the conversations with the President of the Security Council, and now they prepare to withdraw from the Security Council itself. That is putting it rather crudely, and in fact they do it more intelligently and in in a very nice manner, but that is the net result of this suggestion in effect.

In explaining the position of his delegation, the representative of India said only yesterday very definitely, "We have at the Headquarters of the United Nations a permanent representative of our own, and we shall clothe him with sufficient authority to speak with full responsibility for India when such a situation does arise. The question of whether

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any one of the present members of the delegation should be left behind, or somebody else should represent India at such meetings or on such occasions, is—I hope the Security Council will agree—an internal matter to be settled by our Government. We shall do the best we can in order to see that the Security Council's work in connexion with the Jammu and Kashmir question, should any such emergency arise, is not inconvenienced thereby."

They refer restrictively to the Jammu and Kashmir question for the purpose of being represented in the further deliberations of the Security Council. I think that is perfectly clear, and that is why I called the attention of the Security Council in my previous statement to the fact that they had been careful to say that, so long as this item is on the agenda, India is under an obligation to see that any inquiries—only inquiries, it should be noted—made in regard to any emergency situation are answered by someone who has full authority to speak in the name of India. "If it so happens, the representative of India said, "that the Security Council holds a meeting for the purpose of discussing any such emergent situation, India certainly will make arrangements to be properly represented at such a meeting."

I believe that we have no right to overlook these statements, which tell us only too clearly that the delegation of India has expressed unequivocally its intention of being represented only when we discuss the Jammu and Kashmir question, and not when we discuss other matters, some of which are very important.

Item 2 of the agenda, to which the Chinese proposal refers, reads :

"India-Pakistan question :

(a) Letter dated 1 January 1948 from the representative of India addressed to the President of the Security Council concerning the situation in Jammu and Kashmir (*document S/628*).

(b) Letter dated 15 January 1948 from the Minister for Foreign Affairs of Pakistan addressed to the Secre-

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tary-General concerning the situation in Jammu and Kashmir (*document S/646*).

(c) Letter dated 20 January 1948 from the Minister for Foreign Affairs of Pakistan addressed to the President of the Security Council (*document S/655*).

The letter referred to in (*c*) is of a very serious character. We have been informed by the Minister for Foreign Affairs of Pakistan that "the continued occupation by the armed forces of India of the State of Junagadh, which is part of Pakistan, and the oppression and spoliation of its Muslim population constitute a *casus belli* and may necessitate military action on the part of Pakistan unless urgent action is, taken by the Security Council."

The whole question here hinges on that one point. So far India has taken the position that we should reach a decision regarding the question of getting Pakistan out of Jammu and Kashmir, and regarding that only. Only after that is done will India agree to discuss the other matter.

As I understand it, the attitude of the majority of the members of the Security Council is that it is right to take up that matter first because the primary necessity is to have peace and order restored in Kashmir, but there is absolutely no reason why we should not immediately make provision for the plebiscite that has to be taken as a *sine qua non* of peaceful conditions in Jammu and Kashmir. About that, however, the Indian delegation is perfectly clear. The position it takes is : "We wish the Security Council to instruct Pakistan to do this and that to get the tribesmen out of Jammu and Kashmir. Next, we want a national assembly convened ; then we must have a Government and, after all this, we will have the plebiscite." It is because we have not agreed to that order of business that the Indian delegation wishes to return to India. I believe that it is the duty of the Security Council to be very clear as to what this adjournment means, and as to where we shall stand if we agree to the adjournment.

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22. Text of the Speech made by Mr. Lopez (Colombia) in the Security Council Meeting No. 245 held on 11 February, 1948

In trying to be brief, I have omitted the two most relevant remarks that I had intended to make.

Firstly, we do not really have to decide upon the request, because we do not have the request for adjournment. When we started the discussion, the Indian delegation had already booked their passage to India. Notwithstanding all the very friendly and obliging requests that have been made by the Security Council, the Indian delegation have not so far agreed to stay here any longer, so that, really, we cannot say that they have made a request, but they have informed us of their determination to leave for India today. Therefore, I do not know if it would not be much better to inform the Indian delegation that we have taken due notice of their determination to go to India for consultation with their Government and their decision to have somebody else clothed with authority to represent them in the deliberation of the Security Council.

The second remark I wish to make is that, perhaps because we have not given him an opportunity—and I may be the most guilty—the Indian representative has not clarified this question in so far as he might find it advisable to do so in order to dissipate some of the doubts which I have expressed.

The representative of France made what I thought to be a very intelligent suggestion when he said he could not vote on the proposal before the Security Council until he knew whether or not the Indian delegation was going to remain for a few more days. I had already made a similar suggestion. However, I shall be content if the President agrees to my request that the Indian delegation be offered an opportunity, before the Security Council votes on this proposal, to provide some clarification of the various points which has been raised.

Finally, I wish to say that, after the remarks I made earlier today, my attention was called to the fact that the

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letter from the delegation of India does refer to the draft resolution submitted to the President last Sunday. Aside from that, my remarks stand.

23. Text of the Speech made by Mr. Lopez (Colombia) in the Security Council Meeting No. 269 held on 18 March, 1948

I should like to request some clarification on the way in which the Security Council intends to proceed. Apparently the President's idea is that we should go on to discuss his draft resolution. Does that mean that the other draft resolutions that have been presented are considered as indefinitely postponed or discarded ? That is one point.

Another point is this : I believe it would be worth while for us to discuss, if only for a few minutes, the course we have been pursuing. This course seems to be substantially as follows : The President of the Security Council discusses the question with the delegations of India and Pakistan. He returns to the Security Council with a new proposal which, as in the present case, does not represent agreement between the two delegations but is, in fact a new draft resolution submitted to the Security Council to be considered in the ordinary way.

I could understand the procedure if the President of the Security Council, acting on its behalf, had conversations with the two delegations and they reached agreement as to the terms of settlement. A draft resolution containing those agreed points would naturally take precedence over the other ones. But as it happens, all we have been doing is accumulating draft resolutions presented by the President of the Security Council which, as I said, do not represent agreement between the two parties concerned I do not know if that is the best way to proceed. Although the Colombian delegation has presented a draft resolution [*doeument S/671*] which in the opinion of the Indian delegation provided a basis for discussion before they left for India, we are satisfied to leave our proposal in abeyance provided we know clearly how we are going to proceed.

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However, I think it might be worth while to discuss the method we have been pursuing and decide whether it is the best method. Following this method, we have so far held twenty to twenty-five meetings of the Security Council on this subject without achieving any definite result.

My third point is that the Security Council has several items on its agenda. One of them is the Palestine question. It is true that the India-Pakistan question came to the Security Council before the Palestine question. On the other hand, it is true that the Palestine question is very pressing because the Government of the United Kingdom has set a definite date for the termination of its Mandate over Palestine and we are acting under the pressure of that date. I believe that must be taken into consideration in planning the distribution of the time of the Security Council.

24. Text of the Speech made by the President in the Security Council Meeting No. 269 held on 18 March, 1948

Part of the question raised by the representative of Colombia was put to me by the representative of Pakistan when he raised the question of procedure. I shall answer first the question asked by the representative of Pakistan. There are indeed a number of draft resolutions before the Security Council beginning with those introduced by the representative of Belgium [*document S/667*]. All those resolutions will be dealt with according to our rules of procedure.

In regard to the general handling of this question, the members of the Security Council will remember that I inherited the present method from my two predecessors. At the very first meeting this month which was devoted to this question, I consulted the members of the Security Council as to whether or not they wished that procedure to be continued. So far as I am concerned, I should welcome abandonment of the present procedure and adoption of the procedure which is used by the Security Council in connexion with all other questions.

I should like to add, however, that the draft resolution

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which I have presented today is the result of considerable consultation with the delegations of India and Pakistan. While it has not been found acceptable by both delegations, I think I am correct in saying that the representative of Pakistan did not say that the provisions of the resolution are unacceptable as far as they go. If I understood his criticism correcly, he meant that those provisions do not go far enough and do not provide adequate safeguards. He was not in favour of dropping any of the safeguards provided in the draft resolution. If my understanding is correct, his position was that he would accept the resolution if certain other provisions were added to it. Wish that I could have produced a draft resolution entirely acceptable to both parties.

My forecast is this ; Whether the detailed work involved in this kind of preliminary survey and consultation is carried on by the President of the Security Council or by another member or by several members, it will be very difficult to produce a resolution entirely acceptable to both parties. I think the Security Council should aim at the maximum agreement possible between the two delegations. There will be a margin of disagreement. So far as that margin is concerned, I hope that in the end the two parties will accept what the sense of fairness of the Security Council recommends.

25. Text of the Speech made by Mr. Parodi (France) in the Security Council Meeting No. 269 held on 18 March, 1948

I had not intended to speak tonight. The document which you have placed before us certainly calls for further consideration. I think however that it may be useful to make, at once, two observations which have some bearing on the course of our later work.

First of all, I wish to join Mr. Noel Baker in expressing our thanks to the President for the work which he has accomplished. I believe that it is on the whole very helpful to the study which we make of any question, if the President, or the

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Rapporteur—and in the present instance he has been so good as to perform both these functions—initiates certain hearings and prepares the ground for the work of the Council.

As the representative of Colombia reminded us a moment ago, we have at present before us a whole series of draft resolutions. In my opinion, these draft resolutions do not differ greatly. At the first reading, at any rate, they all seem to be in the same spirit, and I personally think that the President's draft resolution represents, in a sense, a kind of synthesis or extension of all the draft resolutions already submitted. I venture to hope that when we resume discussion of the question we shall be able to carry on our work with a condensation of these draft resolutions ; and that these draft resolutions will be brought more closely together, in order that any differences which may still exist between them may be expressed in the form of amendments rather than separate proposals.

I now wish to make a remark on the substance of the question. In this discussion there is a fundamental point, and what disagreement exists would seem to me to relate to that point. This is the question of the presence of Indian troops in Kashmir during the period of the plebiscite. I can understand the anxiety which the representative of Pakistan may feel, and I realize that it would be desirable and preferable if we were in a position to call upon another authority able to provide us with a full guarantee that the plebiscite will take place under perfect conditions. But I do not see any practical possibility of finding another force to replace the armed force which is already in Kashmir.

Moreover, these are territories which have been devastated in a most deplorable manner, resulting in the loss of human lives and vast material destruction ; the violence is in part the result of a tribal invasion, and in part due to the intrusion of external forces. It is difficult to conceive that the restoration of order and peace has so stabilized the situation as to have dispelled all fear of any resumption of violence. I do not think, therefore, that the Security Council can venture to say that at any given moment this territory should be

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deprived of the forces which are at present capable of maintaining public order.

Another point which has been raised is the presence of an Indian administration, or at least an administration which is said not to be completely neutral and impartial. Here also there are vital needs to be considered, namely the maintenance of order, the government and the life of the country. If we take into consideration the plebiscites of the past, wherever they may have been held, I have no knowledge that it was ever said that these plebiscites should be held in areas previously emptied of any kind of force capable of maintaining order, or of any kind of government. Experience proves that—subject to guarantees which can be easily imagined—impartial and satisfactory plebiscites can be organized in countries containing administrative machinery and providing the necessary guarantees for public order.

I wanted to state at once my opinion on this point, because I think that our further deliberations and attempts to bring the two parties together should tend in this direction ; we should search for guar ntees to ensure the impartially of the plebiscite despite the presence of Indian troops, rather than seek a solution which seems to me impossible of realization and which would deprive this troubled land of any kind of force capable of maintaing order.

If I understood him correctly, the representative of India would not object to a study in this sense, or to the search, if necessary, for other guarantees, or to new and more precise provisions regarding the guarantees already mentioned in the text before us. Two types of guarantees are provided in this document : the progressive reduction of troops and their cantonment, the manner in which they are to be stationed.

At the first regarding it would appear that the proposed text should be rendered more precise on one point ; in my opinion, a more precise provision should be added to the effect that the administration responsible for ensuring independence and impartially of the plebiscite should be empowered to negotiate with the authorities concerned ; and this

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administration should at least be able to give its views and to inform us concerning the number of Indian troops and the manner in which they are stationed, to enable us to verify whether all the guarantees I have suggested have been furnished.

It is in this direction that our work should be continued; and in my opinion this is a practical procedure.

It is for this reason that I desired to make these suggestions which I consider useful at the present stage of our work, despite the late hour and the fact that I reserve the right to re-examine the document and to supplement these observations.

26. Text of the Speech made by Mr. Lopez (Colombia) in the Security Council Meeting No. 269 held on 18 March, 1948

I am confident that there will be no doubt in anyone's mind regarding the purpose of my previous remarks. Indeed, I feel very sorry if, for any reason, my previous remarks led the President to believe that I meant to be critical in any way of the very useful work he has performed as President of the Security Council, not only in his conversations with the delegations of India and Pakistan, but also in all other matters.

I want to make it clear that I am simply discussing a question of procedure. It seemed pertinent to me that the President himself said just now that all the different proposals could be dealt with according to our rules of procedure ; but, I respectfully submit, we are not dealing with them according to our rules of procedure, much less so when the President requests the delegations of Indian and Pakistan, as well as other delegations, to submit to him in writing whatever amendments they may see fit to make. As far as my understanding of the rules goes, that does not quite conform to the rules ; and that was my purpose : not, as I say, that I do not think it would be useful.

It is useful to present proposals and amendments in order

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to reach an agreement. But that applies to every other proposal : not only to the President's proposal, but to every one of the proposals that have been submitted here. That is why the rules of procedure provide for the orderly discussion of the different proposals that are submitted. Then every delegation has the opportunity to say what amendments it thinks are necessary for the purpose of reaching an agreement and a satisfactory solution.

I stated before that, so far as we are concerned, it would be perfectly agreeable to us to leave our proposal indefinitely in abeyance. I do not think it is necessary, but I would be as willing to withdraw my proposal altogether, if that is the way to expedite the work of the Security Council, as the President has proposed. But otherwise, I do believe it is necessary to have the procedure more clearly established, because the proper way then would be to agree to leave all other proposals out of account, and then we know that we have agreed to dispose of them in that way.

We would take the President's proposal as a basis of discussion in the Security Council ; then, instead of submitting amendments in writing, we would discuss them here, which is the usual way, and I believe it is the most satisfactory way. Every time we depart from our rules, we come to the same result. That has been my experience here, and, I may say, in other bodies also. When the rules of procedure are disregarded, time is lost. That is why I very respectfully made the remark that, by departing from our rules, we have had twenty or twenty-five meetings and spent three months in the discussion of this matter, and we are substantially at the same point where we were, because the primary object of the conversations of the President of the Security Council with the parties was to see if he could reach an agreement with them and come back with that news to the Security Council. What has actually happened is that, after every conversation, we get a new proposal, and thereby we have been accumulating proposals which we are not handling in the usual way. I repeat, I regret very much if anything I have said can be construed in a sense critical of the work that the President

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has been performing, of which I have the highest appreciation. I simply asked how we are going to proceed and very respectfully insisted that it would be advisable to adhere to our rules of procedure nothing more.

27. Text of the Speech made by General McNaughton (Canada) in the Security Council Meeting No. 284 held on 17 April, 1948

In accordance with the invitation of the President, I should like to offer a brief statement with regard to the draft resolutions presented to the Security Council by the six delegation whose names appear on the document.

It has always been the hope of the Canadian delegation that, with the aid of the Security Council, the delegations of India and Pakistan would find it possible to reach, through the means of direct negotiation, an agreed basis for the settlement of their differences in regard to the State of Jammu and Kashmir, as well as on the other outstanding matters before the Security Council.

If the Security Council now has to turn to the procedure of adopting a draft resolution whereby it offers to both parties the measures which, in our opinion, should constitute a basis for a fair and equitable settlement, it does so in full realization of the fact that this draft resolution will have failed to achieve its purpose if the two parties themselves do not continue to make every effort to come together and cooperate in regard to its implementation.

I should like the delegations of India and Pakistan to know that the draft resolution before the Security Council represents the best advice which completely objective and fair-minded thought could bring to the difficult problem referred to us by the two parties, and with which the Security Council has been anxiously concerned for so many weeks.

In drawing up these proposals we have sought not only to find what measures would, in our view, be the most effective to bring about a cessation of fighting in the State of Jammu and Kashmir and to provide for conditions necessary for a free

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and fair plebiscite to determine the future of the State, but also to provide those measures which will make evident, both to the peoples of the sub-continent of India and to the world, the justice and fairness of the terms and procedures envisaged in our proposal.

All those who have been associated in formulating this draft resolution have been impressed with the unity of thought and purpose which has brought our minds together in working out the text. We have all had but one aim in mind ; namely, how to bring about by peaceful means an end to the dispute between the sister Dominions of India and Pakistan over the State of Jammu and Kashmir.

As the President of the Security Council has indicated, the text before us represents what we think is fair, just and necessary. It is in this spirit that we commend the results of our endeavours to the Governments of India and Pakistan.

28. Text of the Speech made by Mr. Tsiang (China) in the Security Council Meeting No. 289 held on 17 April, 1948

Exactly one month has passed since the Security Council last considered the dispute concerning the State of Jammu and Kashmir. We have devoted an entire month to the study of the problem.

At the end of the last meeting of the Security Council on this question, the 269th meeting of 18 March 1948, I stated that I would rely on the experience of the two previous presidents of the Security Council, the representatives of Belgium and Canada. I also stated that I would welcome suggestions, oral or written, from other delegations with regard to the solution of this problem. Since the adjournment of the meeting of the Security Council of 18 March, I received detailed suggestions from the delegation of the United Kingdom and the delegation of the United States of America. Because of the fact that I anticipated that the solution of the problem would be delayed until this month of April, I also invited the delegation of Colombia to join in

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the discussion. Thus, a total of six delegations participated in the revised draft resolution.

The President of the Security Council called attention to the fact that when he assumed office, he had before him a revised draft resolution, dated 30 March. That revised draft resolution was, in fact, the third since the one I submitted on 18 March [*document S/699*]. Since the submission of the revised draft resolution on of 30 March, many additional revisions have been submitted.

The present revised draft resolution is the considered judgment of six delegations, arrived at after weeks of hard work. As the representative of Canada said, the conferences on this question were animated by only one purpose, that of helping the parties to come to an agreement, and failing that agreement between the parties, to find the fairest and most effective means of achieving a peaceful settlement.

The problem has two aspects ; first, the restoration of peace and order, and secondly, a plebiscite to decide whether the State of Jammu and Kashmir shall become a part of the Dominion of India or a part of the Dominion of Pakistan.

The problem is indeed complicated, having its roots in the long political, cultural and religious history of the sub-continent, together with the very complicated geographical aspect. If we had only considered the complications contained in the problem, we might well have despaired of ever finding a solution. Fortunately, the Government of India, together with the two delegations present, furnished the Security Council with a key to the solution.

Long before the problem was brought to the attention of the Security Council, the Prime Minister of India said that he would leave the question of the eventual accession of the State of Jammu and Kashmir to the decision of the people of that State. Since the question came before the Security Council, the delegation of India and the delegation of Pakistan have both insisted that that is their wish. That gave us the key. Therefore, the plebiscite is the arch of this draft resolution. The question should and must be solved by a fair and

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imparial plebiscite. The greater part of the draft resolution is aimed at making that plebiscite as fair and as impartial as possible.

I should like to explain to the Security Council the various safeguards for the freedom and impartiality of the plebiscite which this draft resolution provides.

The plebiscite cannot be singled out alone. It is related to the entire military and political situation in the State, and therefore, we have included provisions which cover the general situation. However, I should like first of all to deal with the plebiscite itself.

The following provisions are contained in the draft resolution :

First, we privide that an administrator of international repute, nominated by the Secretaty-General of the United Nations, shall be appointed to be the head of the plebiscite administration.

Secondly, this internationally nominated administrator shall have the right to choose his own assistants and subordinates. In other words, this international personage will have the authority to control the choice of personnel in that administration.

Thirdly, this plebiscite administrator shall frame the regulations governing the plebiscite,

Fourthly, the plebiscite administrator shall have full power concerning the conduct of the plebiscite, including the direction and supervision of the State forces and police.

Fifthly, special magistrates, nominated by the plebiscite administrator, shall be appointed to try cases relating to and arising out of the plebiscite.

Sixthly, the Government of India and, through the Government of India, the Government of the State shall undertake to prevent "any therat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public

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authorities and officials in Jammu and Kashmir." This relates to the public authorities in the State.

Seventhly, this draft resolution provides, in paragraph 12, assurance to the voters. Paragraph 12 reads as follows :

> "The Government of India should themselves and through the Government of State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit."

Eighthly, outsiders, people who are not normally resident in the State and who are not there for a lawful purpose, shall be asked to withdraw. In other words, the voting will not be swamped by people who have no right to vote there.

Ninthly, all the present political prisoners shall be freed and given back their citizenship rights.

Tenthly, this revised draft resolution provides that the Commission of the Security Council shall station observers in all parts of the State of Jammu and Kashmir to watch the proceeding in the plebiscite.

Finally, this revised draft resolution provides in paragraph 15 that :

> "The Commission of the Security Council should at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial."

During recent decades, a number of plebiscites have been held in various parts of the world and international bodies have seen to it that the plebiscites were free and impartial. I do not know of any previous plebiscite where the safeguards for freedom and impartiality have been so numerous and strict.

I am honestly convinced that the provisions of the revised draft resolution are all that one could expect. These

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provisions were mainly contained in the draft resolution which I submitted to the Security Council on 18 March. My draft resolution met with a negative reception ; even a hostile one. For a time, I was greatly puzzled. I have learned since that the question of a plebiscite in Kashmir is a special problem quite different from plebiscites that have been held elsewhere.

I learned that the plebiscite which the Security Council wishes to hold in Kashmir may will be influenced by many psychological and sociological factors. Therefore, in order to meet these peculiar psychological and sociological factors, we have introduced in this revised draft resolution other features relating to the disposition of the army and the composition of the interim administration.

It is with these aspects that I now wish to deal. The military provisions of this revised draft resolution have really two objects in view. The first is the restoration of peace and order ; that, in itself, is important, and it is also an essential condition of the plebiscite. Without the restoration of peace and order, no plebiscite can be held. The Indian army is in Kashmir. It went there because of the intrusion of the tribesmen. Therefore, on the military side, we start in paragraph I by asking the Government of Pakistan to use its best endeavours :

> "To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State."

That is the initial point of this whole programme of restoration of peace and order. After a beginning has been made in the withdrawal of these intruders, when the Commission of the Security Council is satisfied that the tribesmen are withdrawing and that arrangements for the cessation of fighting have become effective, then, at that point, the Security Council will ask India to withdraw a part of its army and

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reduce the remainder to the minimum consistent with the maintenance of law and order.

In this connexion, we ask, first, the reduction of the Indian force in the State, and secondly, we ask the Indian Government to station the remainder of those troops—that part which cannot be withdrawn—in accordance with certain principles :

"(i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State,

"(ii) That as small a number as possible should be retained in forward areas,

"(iii) That any reserve of troops which may be included in the total strength should be located within their present base area."

I have been privately informed by our friends from India that they dislike these military provisions ; that they think these provisions go too far and curtail their rights. I think it can be argued that in appearance these provisions do curtail their rights, but I would not concede that in reality, in substance, these provisions, in any way, deny or curtail their rights. It is my conviction that the Commission of the Security Council would wish to have peace and order maintained in all parts at all times. The Commission which the Security Council would send out would not wish to have anarchy develop in any part of the State. Therefore, I presume that the Commission will not propose, to the Government of India or the Government of the State of Jammu and Kashmir, such arrangements as would not maintain peace and order.

That is my understanding of the purpose of these paragraphs. I state it for the record. If other sponsors of this revised draft resolution intend to give those paragraphs a different interpretation, I hope they will state their interpretation now. I shall reiterate that it is my interpretation that the Commission would not wish to hamper the Government of the State of Jammu and Kashmir in the performance of the task of maintaining peace and order.

We hope that these proposed revisions will make that

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problem easier and will make it necessary for India to maintain its present armed strength of the State of Jammu and Kashmir. We hope that when the provisions of this revised draft resolution are carried out, the Indian troops can be reduced progressively and be so stationed as this revised draft resolution requires, without endangering peace and order in the State.

Another complaint against this revised draft resolution is that it does not recognize specifically the right of the Dominion of India and its duty of defending Jammu and Kashmir. That question of defence has been in our thoughts a great deal during the course of all these deliberations.

I maintain that if the provisions of the draft resolution were each executed in turn, the problem of defence would be a minor one, if it did not disappear altogether. We assume that if the provisions of the earlier paragraphs are carried out, it would not leave any problem of defence in that State. But if our calculations should be wrong and if, suddenly, there should be a large invasion, then what? This draft resolution does not provide for that contingency. This draft resolution is framed on the hypothesis that the contigency will not arise. But suppose that contigency does arise. Then what? Then, all the Member States, and naturally the Dominion of India, will fall back on the provisions of the Charter. One of the Articles of the Charter specifically assures to all Members the inherent right of individual or collective self-defence. Therefore, today, I wish to state, for the purposes of the record, that nothing in this draft resolution impairs that inherent right of self-defence. If the other sponsors of this draft resolution have a different interpretation of its meaning I hope they will state it openly before the Security Council and have that put on record too.

It is my understanding that the many provisions of this draft resolution do not impair that inherent right of all Member States to individual or collective self-defence.

Finally, we have to take care of the general political framework under which, in our opinion, this plebiscite might be carried out as we hope it will be. I am now speaking of

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paragraph 6, which is a very important one in this draft resolution. It reads :

"The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level, while the plebiscite is being prepared and carried out."

I wish to call the attention of the Security Council to this paragraph. Major political groups will have the right to designate responsible representatives. The Government of India should undertake to ensure that the Government of the State will invite these responsible representatives.

The major political groups of which we speak are existent groups in the State of Jammu and Kashmir. They are not foreign elements. They are groups of long-standing; well-known to the people. We are not imposing any outside element on the Government of the State, and it is, as the last phrase points out, "while the plebiscite is being prepared and carried out". This provision is for the purpose of ensuring that there will be no undue administrative interference with the plebiscite.

I know there are objections to coalition cabinets. People say that coalition cabinets are inefficient cabinets. Frankly, we are trying to offer to the State of Kashmir a scheme for efficient government. It may result that the efficiency of the administration will suffer. Frankly, we are offering a scheme whereby administrative interference with the plebiscite may be checked, and, because of the representative nature of the cabinet, there will be public confidence that the Government of Kashmir is not interfering with the plebiscite, and that is the primary objective. I do not concede that the paragraph infringes on the rights of the Government of India.

As to the draft resolution itself, I think I have said enough. I know its provisions are not entirely satisfactory to both parties. I am convinced it is impossible to find a resolution that will be acceptable in its entirely to both parties. However, if the members of the Security Council wish to have

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a peaceful solution of this dispute, I humbly and respectfully submit that this draft resolution appears to me to be the only possible one. If the two parties to the dispute wish to have a peaceful solution of this problem, I also humbly and respectfully submit that this draft resolution is the only possible one. Do we, or do we not, wish to have a peaceful solution of this problem ? As the world is at present, I know there are men in public life, who, I should say, speculate on the temporary advantages of war or diplomacy. I think I am not too presumptuous when I say that the statesmen of both India and Pakistan are above such speculations. I know that they wish to organize new States, to organize new life, and to start relations between two neighbours not founded on the shifting sands of war or diplomacy. Enduring foundations for the solution of such a problem can only be found in the consent of the people of the State. If that is the only foundation on which we can build, I submit that this resolution guarantees the fullest and freest expression of the will of the people of Jammu and Kashmir.

29. Text of the Speech made by Mr. Nisot (Belgium) in the Security Council Meeting No. 284 held on 28 January, 1948

The resolution before us recommends to both parties certain procedures or methods of adjustment which in the opinion of the Council, should help to solve their differences. It places at the disposal of the two parties the services of the Commission, already set up by the Council, which will offer its good offices and ensure a means for mediation. Hence, what is proposed now is to obtain the agreement of both parties, which is a necessary condition for the peaceful solution of their difficulties. The purpose of the recommendations formulated in the resolution is to guide and support their efforts.

The Belgian delegation hopes that the Governments concerned in the dispute will take full advantage of these

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recommendations and will support, to the greatest possible degree, any action that the Commission may take to bring about the desired results.

30. Text of the Speech made by Mr. Noel Baker (United Kingdom) in the Security Council Meeting No. 284 held on 17 April, 1948

I wish to join with the President and the representatives of China, Canada and Belgium in recommending this draft resolution to the favourable consideration of our esteemed and patient colleagues from India and Pakistan. I want to ask the representatives of those two States—as I also want to ask the Security Council—to consider the alternative before them, before their Governments and their peoples, if this effort fails.

This resolution, as the President has said, is the result of long debates and of much patient labour by the Security Council over many weeks. Its paragraphs, or many of them, have their roots in our discussions in those dark January days when our work began. I believed then, as I believe now, that the Kashmir dispute is the greatest and the gravest single issue in international affairs.

The Security Council, and, with respect, the parties, can only judge this resolution against the background of what has happened in the last three months. When the Government of India brought its complaint before the Security Council both parties told us—told us with an urgency and conviction which we could not disregard—that their differences about Kashmir might lead them into war. Scores of witnesses of many nationalities told me that war at that time was very near.

Those men who best knew India and Pakistan believed that if war had happened, it might have been as dangerous and destructive a conflict as any in the history of mankind. Only two months before, the Governments, by superb personal heroism, by statesmanlike co-operation of no ordinary kind, had brought the communal troubles in the Punjab to an end.

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But if war had happened, if the armies had been locked in battle at the front, who could have stopped the communal strife from breaking out again ? There are nearly forty million Muslims in India, and many non-Muslims on the other side. If war had happened, tribesmen might have come down not in tens, but in hundreds of thousands. They might have been a mortal danger to both the Governments of India and Pakistan. A sub-continental war involving four hundred million people, a fifth of all mankind, would have been an immeasurable disaster to India, to Pakistan and to the world. And it might have happened. Indeed, in the view of men whom I judge much wiser and more experienced than myself, it would have happened but for the wisdom and the statesmanship which brought the matter before the Security Council. It was certain that when the first phase of our labour was ended, when the Indian delegation returned to Delhi to consult its Government, the risk of war, by general consent, had grown much less. Who can doubt that the discussions in the Security Council had played their part in that result ?

Mr. Austin, in a penetrating review of the work of the United Nations in this month's issue of *United Nations World* has shown that the Security Council, and the other institutions to which it is linked, have had a record of achievement much greater than the defeatists think. But if the Security Council had done nothing else but help India and Pakistan to avoid a conflict, that alone would have earned it the gratitude of all mankind. That fact—that great improvement in the situation which resulted, at least in part, from the first phase of our labours of which we were barely conscious then—should be present in our minds as we near the conclusion of the second phase of our labours here today. It should be present in our minds because plainly in may bear on the value of the draft resolution, for which I hope we shall obtain the unanimous endorsement of the Security Council.

May I now, like the representative of China, speak briefly of the draft resolution and explain how my Government understands it. To my Government it is in no sense an award, a verdict, a judgment between the parties ; it is a

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plan, a body of measures—which the Security Council, I hope, will propose to India and Pakistan this afternoon—designed stop the present fighting in Kashmir and to provide machinery for the fair and impartial plebiscite on Kashmir's future, which both India and Pakistan desire.

The draft resolution was proposed by the six delegations whom the President, in his discretion, thought it useful to consult. That means that the draft resolution is a collective effort. That means that none of us, if he could have done it for himself, would have drawn it exactly as it stands. But we take individual and collective responsibility for the result because we think that these measures, if they are adopted, will give the best hope for a peaceful settlement of the dispute, and a settlement honourable to both India and Pakistan. We believe, moreover, that something along those lines would, in the light of the history of the dispute, have been proposed by almost any body of impartial men.

Of course, the whole plan depends upon co-operation between the Governments of the two parties, co-operation between those Governments and the Commission which the Security Council will send out. The draft resolution is a directive to that Commission. It can be altered, amplified and improved if the two Governments should so agree. I hope, therefore, that the representatives of India and Pakistan will not hastily reject this draft resolution.

May I draw attention, as the representative of China has done, to some of the main features which I hope the representatives of Pakistan and India will bear in mind.

First and foremost, the draft resolution declares that while the threat to peace, though it has been diminished, has not yet disappeared, there is still costly and disastrous fighting in Kashmir ; there is still the risk that a wider conflict might occur. Something, some plan must, in the general interest, be adopted with a minimum of delay.

Secondly, as I have said, these measures depend on the co-operation of the parties to the dispute, and I add that without co-operation freely and generously accorded, not only this plan, but no plan can work.

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Thirdly, the draft resolution imposes a heavy duty on Pakistan in helping to stop the fighting and to prevent it breaking out again. I believe this draft resolution should point the way to the Government of Pakistan towards fulfilment of this duty and, indeed, its fulfilment is surely, in the long run, in the highest and enduring interests of Pakistan itself. It must be Pakistan's overwhelming interest that the fighting shall cease ; that the tribesmen shall go home ; that the volunteers shall return from Kashmir to Pakistan and that, at last, argument and reason shall supersede disorder.

Fourthly, the Commission will be stronger, thanks to the President, than we first intended. Its link with the Security Council will be closer, and I hope it will be quickly at its work, for the part to be played by the Commission is essential to the plan.

Fifthly, and most important, the draft resolution faces boldly the main problems which our discussions have revealed. We all know what they are ; we have debated them for months—the plebiscite, the occupation, the administration of the country until the plebiscite has been held.

In my Govenment's belief, the proposal for the plebiscite are bold and fair. The Secretary-General, as the representative of China has explained, will nominate a plebiscite administrator who, in the name of the Government of Kashmir —but with direct access to the Commission, and through the Commission to the Security Council—will organize and carry out this consultation with the people, which India and Pakistan desire. In the name of the State of Jammu and Kashmir, and with the assistance of the Secretary-General, he will build up his own administration ; he will draft the regulations under which the plebiscite will be conducted, and the Government of India will ensure that the State will give to his regulations the force of law, and that the State will delegate to him such powers as he in his discretion he may require to make the plebiscite as fair and as impartial as it ought to be. And at any moment, if he thinks things are going wrong, he can report directly to the Commission, and through the Commis-

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sion to the Security Council and to the Governments of Kashmir, of India and Pakistan, and it will be his duty to report on any circumstance which, in his opinion, may interfere with the freedom of the vote.

It has been said that these arrangements, though admirable, in themselves, may be frustrated by the troops which occupy the country or by the Government of the State which is in power. Let me speak of occupation. I ask anyone who takes that view to consider fairly the measures proposed regarding the occupation in paragraphs 2, 3, 4, 5 and 8. I find it difficult to believe that, taken together and supervised by the Commission and its observers, for which paragraph 17 provides, these measures will not remove the dangers of intimidation by armed forces in the State. Indeed, I believe that at one time we were near agreement between the parties on this question, and I hope that agreement may yet be obtained.

By far the hardest problem has been, and still remains, that of governing the country while the plebiscite is being prepared and carried through. Some people feel that whatever power the plebiscite administrator may possess, the people who must vote might be influenced by the determined but hidden power of the Government then in office. Paragraph 6 contains the solution which we propose. I have no doubt that both India and Pakistan will raise objections to it. I have no doubt that if, in the end, they should adopt it, this most intractable of all our problems would be solved. Indeed, I go so far as to say this : that unless it can be solved on the basis of the formula which this paragraph contains, I doubt if any peaceful settlement can be obtained at all.

I know that some people think that these measures fall short of what the Security Council should require, that there are loopholes still for improper pressure, for under influence on the people of Kashmir.

I ask these people to consider the guarantees that lie behind these measures which we have proposed. There is the fundamental guarantee that protects the liberty voting in every country where men are free. I mean the right of every political party to hold its meetings, to canvass, to move about,

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to conduct its electoral campaign at is desires. It is the right of every individual leader or follower of any part to take complaints to the plebiscite administrator or to the Commission. There are the members of the plebiscite administration, the observers whom the Commission will appoint—observers who will have the right to go wherever they will and to report to the Commission on any matter dealt with in this plan. There are the general guarantees for the rights of minorities which our paragraphs set up.

Lastly, it is the duty of the Commission to report on the plebiscite, to pronounce in judgment whether, in its opinion, it has been just and fair. Who will face an adverse verdict of the Commission ? I find it hard to think that, with these guarantees, the measures we have proposed will not succeed in guaranteeing full freedom and safety to all concerned.

I know that the Governments of India and Pakistan will have to study this plan as a whole, together with the practical details of its application. I hope they will not decide their action on too meticulous a survey of the paper detalis of what we here propose. In government, it is the spirit behind the paper, the will to make it work, that really counts. The Weimar Republic had the most perfect paper constitution in the world, built on the pure word of John Stuart Mill. Our House of Commons has no paper constitution at all. The Reichstag perished in Hitler's fire. Hitler's bombs destroyed our chamber but our House lives on.

I have explained how my Government views this draft resolution. May I now say why I hope its measures may find favour with both parties to the dispute, and may find it without prolonged delay. To being with, the sands of time, in literal truth, are running out. Kashmir is a land of mountains. In October the snow begins to fall. If the plebiscite which both sides desire is to be held this year, the Commission and the administrator must be at work within a month. The alternative is a summer, perhaps another winter, of uncertainty, maybe of fighting, with all that that would mean.

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I thinks this draft resolution deserves success because the Security Council, if I may say so, has done an honest, a patient and a careful piece of work. It has been accused by reckless outsiders of favouring one side or the other, of playing politics, of yielding to threats and blackmail. I am not always here among the representatives on the Security Council. I can look at the Security Council with a detached and impartial eye. I venture to say that all such suggestions as I have quoted are arrant nonsense. The Security Council has sought only to do right and justice, with equal friendship for the peoples and equal affection for the representative of India and Pakistan, and I am encouraged to hope that this draft resolution will succeed by the very attitude which the parties have adopted from the start.

I said almost in the first words I used in January last [*229th meeting*] that I believed that in their heart of hearts both Governments desired to settle. I believe it even more today. Both Governments want a plebiscite in Kashmir; both want it to be fair.

Sir Zafrullah told us on 10 March 1948 [*266th meeting*] that if there were any condition in his proposals to which even a suspicion might attach that that condition would put pressure on an elector to vote in favour of Pakistan, he would gladly give it up. On that same day the leader of the Indian delegation told us that his Government was as anxious as anyone could be that the plebiscite should be conducted in a perfectly free and unfettered manner. He told us that it wanted the conduct of the plebiscite to be fully independent; that it wanted the Kashmir voters to be free from every pressure, whether by the Government, by the army or by the police.

The Security Council accepts these assurances in the full good faith in which they are made. I say to Sir Zafrullah that unless I was honestly and wholehe artedly convinced that the measures in this resolution would result in an honest plebiscite and a fair and just result, I would never have spoken on it and I would never have commended it to his favourable consideration, as I have done today. I any to the leader of

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the Indian delegation that I am certain there a nothing in this draft resolution which the Indian Government could not safely and honourably accept.

What is the alternative to something like this resolution ? Let us suppose that both sides reject it ; no commission goes to India ; no plebiscite is held. Is it not clear that the situation will not stay as it is today ; that it will inevitably, perhaps immediately, grow worse : that forces may be unleashed which it may be very difficult or even impossibve to control ?

And what are the real interests involved in this dispute ? The people of Kashmir are one per cent of the population of India and Pakistan. Their economic wealth may be 0.1 per cent. What both Governments want is that the people of Kashmir shall live in peace and freedom under the Government which they themselves choose. That is a common interest which surely far outweighs any conflicting interests which there may be.

On 10 March [*266th meeting*], the Indian representative told us in his brave and generous speech that he would come back fully equipped to participate in our debate with greater chances of achieving a result which would be satisfactory to both India and Pakistan. His words recall to me that noble declaration made by his Government on its Independence Day :

"We have proclaimed that we as a nation and a people stand for world peace and co-operation among nations ..We stand for democracy. The method of democracy is to find peaceful solutions for all problems...By violence and hatred no problem is solved."

The proclamation ended as follows :

".....For though Pakistan may be separated from India by political boundaries, yet the essential spiritual unity of the country, like its geographic unity, cannot and should not be broken up. Any injury to one part of the country hurts the other parts."

India and Pakistan have an over-riding common interest in settling this question and in settling it now. Kashmir has become the very pivot of their relations, on which all else

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turns. It is the crossroads at which the course of future history will be decided. The decision means everything to them. It means little less to Asia and the world.

The representative of India speaks for three hundred million people, people with vast resources and an ancient culture. The representative of Pakistan speaks for seventy million people, more than Hitler had when he launched his war. The influence of India and Pakistan as great nations in Asia, as great nations in the world, must be, is, and will be inevitably great. We know that both believe in peace, that both place their hopes in the United Nations. Their action now will have a worldwide and a permanent effect. A settlement would bring hope to every nation, would strengthen faith in international peace and friendship, would enhance the glory of both peoples as no victory of arms could ever do.

On Independence Day, the Prime Minister of India told his people that they were writing history anew. I came across a letter which he wrote to his little daughter on her thirteenth birthday. He said :

"Ordinary people are not usually heroic, but a time comes when a whole people are filled with faith for a great cause and then even simple ordinary men and women become heroes, and history becomes stirring and epoch-making. Great leaders have something in them which inspires a whole people and makes them do great deeds."

That is supremely true of the world in which we live today.

On Monday last, speaking to my countrymen, Mrs. Rossevelt told us how we could win the great historic struggle for peace, happiness and freedom in which all nations are now engaged. Mrs. Rossvelt said :

"It must be done by strong men and women, strong in their convictions and the love which casts out fear and makes men free. It must be done by strong nations whose ways are rooted in individual freedom and belief in justice and laws..... ...The great are humble and cannot be humiliated.....Pray God, we join together and invite all others to join us in creating a world there justice, truth and good faith rule."

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That is the very spirit of the United Nations. May it, in this great matter, now prevail.

31. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 284 held on 17 April, 1948

The India-Pakistan question, which is item 2 of the agenda, is before the Security Council on the basis of allegations by both India and Pakistan that a dispute exists between them, the continuence of which is likely to endanger international peace and security. That is the reason they have come here to the Security Council. Indeed, they pictured a scene of fearsome threat to international peace and security in the several representations which they made to the Council. The facts which they submitted, facts in which we believe and on which we rely, justify their allegations.

The Security Council does not have to pass judgment upon any issue of fact in this dispute beyond the one on which both parties were agreed, and which they pressed earnestly. The Security Council has never undertaken to decide the particular issues of fact or of law existing between the parties. It was sufficient to charge the Security Council with the duty to have before it a dispute, the continuance of which was likely to endanger international peace and security.

Our responsibility was challenged at once, and it remains challenged now. We are acting under a general mandate which is beyond the specific povisions of the Charter. It is contained in paragraph 1 of Article 24, which reads as follows :

"In order to ensure prompt and effective action by the United Nations, its Member confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf."

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We have acted on behalf on these two Members for whom we have very great respect. We recognize the contribution which they have made to peace and we recognize the devotion of both of them to the principles and policies of the Security Council and their earnest desire to arrive at a solution of this dispute which will be peaceful and just. Their conduct has been according to that principle.

India appeared before the Security Council with the requeest that the Council assist in restoring peace and order in Kashmir by calling upon Pakistan to desist from certain actions which the Government of India considered to be unfriendly

The members of the Security Council will note that in this revised draft resolution, an attempt has been made to deal with this particular allegation. In paragraph 1, under the title, "Restoration of peace and order' we find this recommendation :

"1. The Government of Pakistan should undertake to use its best endeavours :

"(a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State.

"(b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, as that therefore they should co-operate in the maintenance of peace and order."

On the other hand, in the counter-complaint of Pakistan, it was maintained that the people of Kashmir had strong economic and cultural ties with their Pakistan neighbours but were not able, under circumstances prevailing in the State, to express their wishes on the ultimate affiliation of the State to

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one or other of the two dominions. Fortunately, the Government of India had, at the time of Kashmir's accession, committed itself to the statesman like principle that this question must ultimately be decided by the freely-expressed will of the people of the State. Responsible Indian leaders announced their willingness to see the issue resolved by a plebiscite, under international auspices.

Therefore, the problem which confronted the sponsors in working out this revised draft resolution was a simple one in some ways. It was principally a problem of pacification and of establishing a plebiscite, about which both parties had begged the Security Council to do something. However, the difficulty remains of devising procedures whereby the plebiscite would be administered fairly and impartially. We soon ascertained that the method which we have always tried in every one of these issues, the continuance of which might endanger the security and peace of the world, and which was the same method which we tried here—of solution by negotiation, with the Security Council standing on the sideline and exhorting the parties—did not accomplish its objective. It was apparently impossible for the parties to agree on a solution.

Thereupon normally, under the Charter, it would become the duty of the Security Council to make recommendations. But in addition to that, in this case, the Security Council was requested by both parties to make specific recommendations. Of course, both sides reserved the right to challenge those recommendations and state their objections to them. I anticipate that they will do that now.

In passing, let me say that the record of this case has been admirable from the point of view of the attitude of the parties and their representatives present here. Their conduct, in a parliamentary way, has been superior to any I have ever witnessed. They have treated each other with consideration, and considerate courtesy, and they have made our task far more pleasant than it can be, as we well know, when parties hurl invectives at each other and when they fail to observe the rules of good conduct in parliamentary debate. Here we have a notable example of what a cultured people has accomplished and can do. The example is a very good one.

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This plan is not a final solution. It does not pretend to be more than a recommendation, accepting the creation of a subordinate organ representing the Security Council to help these parties in accordance with their request.

The first part of the revised draft resolution is a resolve, not a recommendation, and amends the previous resolution by increasing the number of members of the Commission to five. It instructs the Commission in a manner which relates to the future and shows that the theory which the Security Council has about a solution here is one work; that this is only a plan; only a recommendation; a suggestion to these parties, and calls for work on their part and a continuation of their efforts, but with the aid of good offices of the Security Council. This Commission is vested with authority not merely of a good offices commission, but with the authority of a good offices commission, but with the authority of a mediator to settle controversies, questions and interpretations, and to enable these parties to accomplish the business of a final settlement on the spot.

Thus, it says in the first part of the draft resolution, which is both effective and binding :

"Instructs the Commission to proceed at once to the Indian sub continent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to faciliating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite, by the two Governments, acting in co-operation with one another and with the Commission, and further instructs the Commission to keep the Council informed of the action taken under the resolution..."

All that which follows this is a recommendation. Even the part which relates to the Commission is a recommendation that the Commission should, at the end of the plebiscite, certify to the Security Council whether the plebiscite has or has not been really free and impartial.

The Security Council is undertaking here and now to fulfil for these parties the requests they have made and lays before them these recommendations. The Security Council

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has no authority to apply sanctions to these recommendations. The Security Council has been called upon for its good offices under the pacific settlement provision of the Charter. It is just responding now to this request, and what it is offering to these Members of the United Nations, on whose behalf the Security Council is acting, is something which represents three months of effort on the part of the Security Council to arrive, not at a decision and final solution, not at a determination of the issues between the parties, but at a method to be recommended to them to apply to their dispute, and for them to arrive at a solution by agreement in contrast to a solution by military decis on.

In passing, permit me to thank Mr. Noel Baker for what he had to say about this subject of the achievement of the United Nations. Of course, I recognize that what he refers to in this instance is that, had there not been a United Nations to come to with this case three months ago, there might have been a devastating war of great magnitude already in progress. We recognize that because the United Nations was in being and because the parties came here with their dispute, that which existed and threatened so much, calmed a little and certainly did not increase, and that the situation today is better in India and Pakistan, because the United Nations was here to consider carefully the appeals of both these parties.

We have now considered these appeals and have given the best that our judgment affords. It took something to do this. I am sure the parties realize that, when they appeal to a body like this, one made up of eleven different nations, they are appealing to individuals and to countries that will have different points of view and envisage these problems differently, and that, therefore, it takes a spirit of conciliation in order to reach that measure of agreement which has already been indicated here by the fact that there are several sponsors to this draft resolution. It is not because of the dignity or worth of these sponsors, but because of the fact that so many of them in studying this case came to this measure of agreement, that there seems to me to be cause for considering carefully these recommendations.

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I had intended to go into the development of the character of future action under these resolutions, but I think I have said enough. Now if the parties desire to study this draft resolution with that point of view, aiming at the realization that the character of this resolution is one of help ; that it is not one imposing anything on them, and that it takes one other factor in order to make it a binding obligation—agreement or assent to it, or action under it—then I have a feeling, and I certainly have a hope, that what the Security Council has done for them at their request may be found by them to be worthy of trying out, and, if tried out, may be found feasible and effective.

32. Text of the Speech made by Mr. EL-Khouri (Syria) in the Security Council Meeting No. 286 held on 21 April, 1948

We all agreed from the beginning of this discussion that an effort should be made to get the agreement of both parties on one kind of resolution, with the belief that it would be advantageous for the Security Council and for the implementation of its programme if the programme coincided with the wishes and had the consent of both parties. Unfortunately, until now, this agreement has not been achieved. Each side persists in its position. From the speeches which we heard yesterday [*285th meeting*], we understood that neither of the parties is in agreement with this joint draft resolution.

This matter has certain aspects. There is the political aspect, and there is the judicial and legal aspect of the question. I have noticed that this joint draft resolution, which has been proposed by six and supported by seven members of the Security Council, deals in a very good manner with the political aspect, the finding of a solution which would cope with the political phases of the question in the best possible way.

But at the same time, there is also the legal aspect which has not even been discussed, nor considered at all, in the Security Council. The legal aspect to which I refer is the

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matter of accession, which is now considered by the Indian delegation as an accomplished fact. The Security Council did not refer to this matter in any way, but I believe that, while dealing with such a situation and considering a final resolution on it, this aspect should not be negected altogether. This is obviously the case if we bear in mind what the accession is and to what extent it can be considered, in such a way that it would be helpful for both parties and for the Commission which is to be established to assist in the implementation of the resolution.

I understood from the statements presented by both parties that the accession of one of the States to either India or Pakistan will, in the first place, be made by the ruler, by the Maharajah of that State, when he is in full agreement with his subjects. If there is no agreement between the Maharajah and his subjects, then the plebiscite is the only way to decide the question of accession, whether it be to one side or the other.

I do not know how many of the 585 States in the subcontinent of India have acceded to Dominion or the other in this way, but there were only two cases brought before us: Kashmir and Junagadh. Both of them are in similar, antagonistic positions. In Jammu and Kashmir there is a great majority of Muslims, about eighty per cent. In Junagadh it is the contrary. The population is Hindu, and the Maharajah is Muslim, while in Kashmir the population is Muslim and the Maharajah is Hindu. It seems that in both States the accession was declared by the Maharajah, according to his own wish, sentiment and intentions. The Muslim Maharajah of Junagadh submitted his decision of accession to Pakistan, being himself Muslim and the majority of his subjects Hindus. In Kashmir it was just the contrary. The Maharajah is Hindu, and the majority of the people are Muslims, so the Maharajah of Kashmir expressed his desire to make the accession to India. In both cases the wishes of the Maharajah were opposed to the desire and wishes of his subjects. According to the agreement reached between the two parties when the Dominions of India and Pakistan were

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created, in cases where is conflict between a Maharajah and his subjects, only a plebiscite would determine to which Dominion accession would be made.

We have seen what happened in the case of Junagadh. When the Maharajah announced the accession to Pakistan, the Indian Government did not accept it, and they occupied Junagadh with military forces, deposed the Maharajah and established a new government. Afterwards, they had a plebiscite, and the result of the plebiscite were in favour of India, so that the desire of the Maharajah for accession to Pakistan was nullified.

In the State of Kashmir it was altogether different. The Maharajah announced his desire for accession to India against the wishes of a good number of the people. I do not now, whether that number was in the majority or in the minority but there were revolution and bloodshed in Kashmir for some time. The Muslim people there, as we understood it were demanding that the Maharajah declare accession to Pakistan, which he did not wish to do. He declared accession to India and called for help from India. India at once sent forces to occupy the country and became the *de facto* authority there, complying with the wish of the Maharajah, while the population is still fighting and receiving help from raiders and intruders from other neighbouring countries and from the Muslim tribes who came to help their people.

There is another government, the Azad government Kashmir, which was established to defend their case. In this matter, as far as I understand it, it would not be legally and judicially correct if we considered the accession as already having taken place, and that it cannot be modified except by a plebiscite I consider that, up to the present time, there is no accession of Kashmir to either Dominion, because that accession which was proposed was not in conformity with the arrangements and arrangement made between the two parties, and it is not an arrangement with the people of Kashmir themselves whereby they have been given a chance for self-determination, an opportunity to decide their own fate. The wishes of one person should not dominate, as in

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the case of Junagadh. It is correct to say that the Maharajah of Junagadh, in declaring his accession to Pakistan, was not acting within the rules of our Charter, and that the people of Junagadh were not given the opportunity for self-determination, the chance to determine the fate of their future government. It was the same case in Kashmir.

Let us leave this point and pass on to the second point, which is that there are now two candidates for election in this plebiscite : India and Pakistan.

I consider it to be fair and just that, in drafting a resolution, the Security Council should give to both parties equal advantage and privileges in controlling the plebiscite which is to be held. I believe that it is obligatory that both parties should have the same advantages, just as, in all elections held throughout the world, when there are two condidates, they are given the same opportunities to exercise their right of control and of seeing what is going on. One party should not be given the advantage over the other.

The draft resolution before the Security Council envisages, as a first point, the establishment of peace. Toward that end, it calls upon the people of Kashmir and the tribemen who are there to stop fighting. I am sure that such an appeal will not be effective.

Sub-paragraph 1 (*b*) of the draft resolution calls upon the Government of Pakistan to use its best endeavours to persuade the people of Kashmir and the tribesmen who came there from outside the State that this resolution guarantees for them full freedom to express their views in a just and free plebiscite.

The representative of Pakistan indicated on 19 April [*285th meeting*] that he is not convinced that this resolution will guarantee the fulfilment of the aims indicated in it. How can we ask the Government of Pakistan to persuade others of someting about which that Government is not itself convinced ? The representative of Pakistan stated clearly that he is not convinced that this resolution will guarantee a free plebiscite and equal rights to all the people. If he is not

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convinced, certainly we cannot expect him to convince others. Therefore, the first point as to the establishment of peace fails from the beginning.

If the Government of Pakistan will not undertake to carry out the provisions of sub-paragraph 1 (*b*), who will do it? It will have to be done by force. The Indian forces which are in Kashmir will continue to fight with the tribesmen and with the opposing party, in order to try to establish peace. In that case, our resolution would not be effective in leading towards a peaceful solution of the matter.

As to the next point, the plebiscite, under the terms of the joint resolution Pakistan would have no opportunity to participate in controlling or inspecting or supervising it. The Government of India has been given a certain amount of supervisory authority ; Pakistan has been given nothing. I think that for reasons of fairness and particability, the Security Council must give equal opportunities to both parties in any resolution. Only in that way could the resolution be worthy of being described as a recommendation not of either of the parties, but of the Security Council. If we fail to meet the desires of the parties, then we have to draft our resolution in fair terms, giving equal advantages to both.

If the authors of the joint resolution would agree to certain amendments in it, I should perhaps find it acceptable. However, I understand from reliable sources that the seven members who have supported the resolution are not ready to vote for any amendments. Furthermore, the paper circulated today by the Indian delegation indicates that it does not accept this joint draft resolution and will not agree to any amendments unless the Pakistan delegation is willing to accept the first draft resolution submitted by the President of the Security Council, the representative of China [document S/699].

For these reasons, I do not see much hope in supporting this draft resolution, or in trying to put it into effect. The fighting will continue in the present circumstances, and no results will be attained. Therefore, as long as the draft resolution does not have the support of both parties, I prefer to abstain from voting.

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The President: As no other member of the Security Cpuncil wishes to speak. I take it that it is the wish of the Council to proceed as has been suggested, namely, to discuss and vote upon this draft resolution paragraph by paragraph. We shall do so accordingly.

Before I ask the Assistant Secretary-General to read the draft resolution paragraph by paragraph, I wish to make clear once more that it has never been the understanding of the authors of this draft resolution, nor their wish, intention, or right, to restrict the views of any member of the Security Council in any way, or to prevent their submission of whatever amendments they may see fit to any of its paragraphs.

Mr. Sobolev (Assistant Secretary-General in chareg of Security Council Affairs): The preamble of the revised draft resolution at present under discussion reads as follows:

"*The Security Council,*

Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir,

"*Being strongly of the opinion* that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting.

"*Noting* with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite,

"*Considering* that the continuation of the dispute is likely to endanger international peace and security,"

The President: The complaint has been voiced that the authors of this proposal failed, in the preamble, to give their opinion as to the steps that should be taken by Pakistan to secure the removal of the invaders.

I should like to explain that the matter of the complaint is very clearly and fully covered in the substantive part of the draft resolution, in the paragraph relating to the things that Pakistan should do on the recommendation of the Security Council. In this connexion we did not think that the Security

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Council had been invited, or could be invited, to give an opinion on the legal merits of the case as to the rights of the parties to this dispute. The Security Council was requested by them to take appropriate measures for the pacific settlement of the dispute and to restore friendly relations between then. That is what we have been seeking to achieve by these recommendations.

I might add that, at the very beginning of these deliberations, the position seemed to be more hopeful than it is at present. As a matter of fact, both parties agreed to the appointment of a Commission that would act on behalf of the Security Council [*230 meeting*], but the members of which would be appointed by the parties to the dispute. At the beginning we did not think it would be necessary in any way to have direct representation of the Security Council on the Commission.

The Security Council has had an opportunity to hear the extreme points of view so ably stated by the representatives of India and Pakistan and also to appreciate the task with which it was confronted in trying to bring about some sort of conciliation between those two extreme points of view in order to make what would be considered a just, fair and acceptable recommendation.

It is a matter of great disappointment to the Security Council to find that, on the contrary, both parties seem to think very definitely that the Council has not learned enough to either side in trying to meet their wishes, but we still hope that the Council has not learned enough to either side in trying to meet their wishes, but we still hope that the spirit of the friendly approach that brought the parties before the Security Council will be continued, and that the over-riding interests of the sub-continent will very decisively influence the parties to consider these recommendations as favourably as possible before doing anything that will in any way—I will not say endanger international peace and security because I do not even like to think of that—but which might in any way widen the breach between the two Dominions. The Security Council believes that it is clearly in their interest to make every possible

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effort to reach an understanding, and confidently expects that after this discussion has come to an end, the Governments of India and Pakistan will see their way to remedying whatever shortcomings this draft resolution may have, with a view to finding a way to work in agreement towards this proposed goal of a free and impartial plebiscite by means of which the people of Jammu and Kashmir would be given an opportunity to decide the question of accession either to India or to Pakistan.

33. Text of the Speech made by Mr. Lawford (United Kingdom) in the Security Council Meeting No. 304 held on 26 May, 1948

While appreciating the force of the arguments which have just been used by the representative of Argentina, my delegation feels that if we wait as long as he suggests, we may be waiting forever and the Commission may never go out to Kashmir at all. We are strongly in favour of the Commission's now proceeding to India at the earliest opportunity though we also agree with what I think was the President's suggestion that a preliminary meeting should be held here for convenience. We also agree with what I understand was the President's proposal that the Commission should deal with these additional questions, as well as the question of Kashmir, when it is in India.

We consider that the utmost care should be taken not to prejudice any further the chances of successful action by the Commission with regard to the settlement of the Kashmir dispute. In the circumstances, we consider it important that the Commission should not take action on these issues until it judges this to be appropriate, having in mind that its first objective should be to arrange, in co-operation with both parties, for measures to bring about a settlement in Kashmir. This does not mean that we should in any way minimize the importance with which these additional questions are regarded by the delegation of Pakistan. On the contrary, we wish the Commission to deal with them as the President would suggest.

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Above all, we want to ensure, by avoiding further delay, lengthy discussion, recrimination and counter-recrimination, that the time we have already spent here on these questions—in our view, in the interests of India and Pakistan—should not prove, through the passage of still further time, to have been completely wasted.

The Commission may have a very difficult task, but if the representative of Argentina will allow me to say so, its members are eminent, distinguished and efficient men, and we are hopeful, in the United Kingdom, that once the Commission arrives in India, whatever the appearances may be now, it may finally be able to accomplish the just and lasting settlement which we all—and above all, I think—India and Pakistan—have at heart.

34. Text of the Speech made by Mr. Tsiang (China) in the Security Council Meeting No. 304 held on 26 May, 1948

During an early part of the Security Council's discussion with regard to this question—back in the month of February—my delegation suggested that it might be better for the Security Council to adopt a number of general principles, leaving the details to be worked out on the spot by the Security Council Commission. That suggestion was made because of the consideration that the members of the Security Council did not have all the local knowledge which the solution of the problem required. In the second place, we had one other consideration, namely, that if the members of the Commission were on the spot, they might achieve more through personal relationships than the Security Council could achieve here, at such a distance.

The suggestion of the delegation of China was not adopted by the Security Council, mainly, I think, because we all deferred on that point to the judgment of tae delegation of the United Kingdom. Since the delegation of China adopted that standpoint early in the debate, it cannot, of course, object to the Commission going out at this moment.

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As I listened to the objections put before the Security Council by the representative of India, I had the feeling that some of them were not of so serious a nature as to prevent our commission from doing good work. I have in mind particularly the objection he raised on the ground of peace and order. It is evident that it is as much in the interest of the Security Council that peace and order should be restored in Kashmir as it is in the interest of India and Pakistan. As I stated before, it certainly would not be the intention of our Commission to make it impossible for peace and order to be restored in Kashmir. The plebiscite itself could not take place unless peace and order were completely attained in that region. Therefore, the objections of the representative of India on that score seem to me to be suspceptible of adjustment on the spot.

However, the representative of India raised another objection, namely, that referring to the coalition Cabinet in Kashmir. I felt that this objection was more serious and that it might hamper the activities of our Commission. It is on that ground that I hesitate to urge that the Cammission should proceed at once to India. Without some adjustment on that particular point, I feel that our Commission may not find it possible to do useful work. Again on that point, so far as I am concerned, I am ready to defer to the judgment of the representative of the United Kingdom.

However, if we should agree that the Commission should proceed to India, I feel it would be wise not to refer all of the disputes to that Commission at once. We might allow the Commission to work for some time on the Kashmir question. If due progress is made on that question, then further matters might be referred to the Commission. If the Commission is overloaded at the very beginning, its chance of success even with regard to Kashmir may be diminished.

Without passing judgment on these various questions or their relative importance, we must agree that, once we make some headway with the question of Kashmir, we shall find other questions much easier of solution. In case we meet

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with a deadlock on Kashmir, then I am afraid success on the other questions will not be easy.

35. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 304 held on 26 May, 1948

The delegation of the United States supports the proposal made by the President of the Security Council at the opening of this meeting. This proposal, if we understand it correctly, is that the Commission should act according to paragraph D of the resolution of 20 January 1948 [*document S/654*], which reads as follows :

> "D. The Commission shall perform the functions described in clause C: (1) in regard to the situation in the Jammu and Kashmir State set out in the letter, dated 1 January 1948, from the representative of India addressed to the President of the Security Council, and in the letter, dated 15 January 1948 from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General; and (2) in regard to other situations set out in the letter, dated 15 January 1948, from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, when the Security Council so directs."

This would be with the understanding that the Security Council Commission would concentrate its efforts initially on the Kashmir issue, taking up the Junagadh question at its discretion.

I listened with great interest to the remarks of the representative of Argentina. I must say that, for the time being, we feel persuaded that some investigation should be made by the Security Council's Committee of Experts with reference to the general situation which has been disclosed by the experience of the Security Council in this India-Pakistan case, and in other cases as well. We have noticed that there is apparently no sense of obligation on the part of the parties to the case. The parties come to this great United

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Nations under the very generous spiritual terms of the Charter. The Charter invites all the world to being its difficulties and disputes to this international Organization. The parties come here and engage the very expensive machinery of the United Nations and the time of distinguished men from all over the world, and there does not seem to be much sense of obligation to give respect and due regard to the judgment arrived at.

I notice that the Charter in Article 35, paragraph 2, mentions an obligation. It is related to the privilege that is granted to a State not a Member of the United Nations to: "...bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purpose of the dispute, the obligations of pacific settlement provided in the present Charter."

It might be very helpful if this Committee of experts would examine what was meant by that. What was the obligation of pacific settlement provided in the present Charter? Neither party that has come before the Security Council seems ready to admit that there is any obligation whatever. In fact, the recommendations of the Security Council in this case were made because the parties came to the Security Council and represented that if this dispute were allowed to continue without the intervention of the United Nations, it might lead to a threat to the peace and a breach of the peace. That is the foundation on which the Security Council acted.

For four months following that, we heard the parties on both sides and diligently tried to get them to arrive at a solution by negotiation but they could not do it. They barely yielded from the original trading position that they took at the beginning of these negotiations. Finally, they called upon the Security Council to make recommendations; both parties asked the Security Council to do that. And the Security Council passed a resolution, to many of the most important articles which we are now told they will not assent, but which they will resist. That is an absured position for the United Nations to be in.

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Are there no obligations under Chapter VI, "Pacific Settlement of Disputes" ? If there are not, to what does this refer ? In Article 35, paragraph 2, it says "...if it accepts in advance, for the purpose of the dispute, the obligations of pacific settlement provided in the present Charter".

I am very interested in what the representative of Argentina has proposed here, and I shall examine the specific terms of his proposal with great attention because I think that we have learned from our three years' experience here that there are certain matters relating to the interpretation of Chapter VI that need to be clarified and explained to the world, so that in this benevolent work of ours, in which the whole world is free to air its disputes and grievances, we may have some method of effective collaboration under the pacific methods of dispute. Parties sit at this table with almost unlimited privileges, having all the privileges of any Member save that of voting ; they engage in prolonged representations ; they engage in *vis-a-vis* debate against each other here in the Security Council ; they have the opportunity to debate particular specific provisions of a resolution when we are at work upon an undertaking that is peculiarly up to the Security Council : then when it comes to the performance or execution of the terms of a resolution, they say they will not consider it.

There is something exceedingly wrong about that. It is not only morally wrong, but I think that it is not in conformity with the spirit of the Charter and that the time has come when the Security Council should get out an interpretation of what are the obligations of pacific settlement provided in the present Charter and when it should lay them down, so that in some such manner, in recognition of some of the cost, the parties will assume an obligation in advance to abide by the decision that is arrived at through this Chapter of the Charter. If parties come here and both of them call upon the Security Council to make recommendations for the solution of their dispute, ought they not in advance agree to abide by it ? They are not bound to ask the Security Council to make such recommendations, but if they do, I ask the Committee of

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Experts if they have not thereby implied that they will conform or try to conform to them.

This situation is a serious one affecting the foundations of the world and of this great United Nations, and I shall consequently examine with great interest the proposal, when it comes, of the representative of Argentina. But, for the time being, the United States delegation favours the proposal made by the President for reference of all these matters to the Commission with the understanding that the Kashmir matter has priority and that the other matters shall be taken up at its discretion.

36. Text of the Speech made by Mr. Korbel (Chairman of the United Nations Commission for India and Pakistan) in the Security Council Meeting No. 399 held on 13 January, 1949

May I be allowed to say on behalf of the Commission that it feels highly honoured to appear today before the Security Council to present its second interim report. The first interim report [*S/1100*] was presented to the Council on 25 November 1948 and covered the period of the Commission's activities in the sub-continent. The second interim report covers the Commission's work in Geneva, in Paris, and at Lake Success to the present date.

Members of the Security Council will remember that on 13 August last year, when in Karachi, the Commission passed a resolution consisting of three parts, which appears in its first interim report [*S/1100*]. In part one it asked the Governments of India and Pakistan to stop fighting; in part two it proposed certain principles for a truce; and in part three it expressed in general terms its conviction that the future status of the State of Jammu and Kashmir should be decided by the free will of the people of that State.

The Government of India signified its acceptance of the Commission's resolution, and the Government of Pakistan attached to its acceptance certain conditions regarding mainly

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the question of conditions under which the plebiscite should be held in the State of Jammu and Kashmir.

On the basis of this, the Commission, when in Paris, suggested that two representatives of the Governments of India and Pakistan should take part in conversations regarding the conditions and the basic principles which should govern the holding of the plebiscite. Both Governments responded to this suggestion affirmatively. Thus, the Commission held several informal conversations with the representatives of India and Pakistan, these conversations being held partly by the Commission as a body, and partly by individual members of the Commission.

These conversations led the Commission to formulate its final proposals, which were communicated to both Governments on 11 December. In the Commission's communication it was stated that the Commission hoped that those proposals would be accepted by both Governments in their entirety.

The main points of those proposals were: that the accession of the State of Jammu and Kashmir would be decided by way of a free and impartial plebiscite: that the Secretary-General of the United Nations would nominate, in agreement with the Commission, a plebiscite administrator who would be a person of high international standing and who would derive from the Government of Jammu and Kashmir the powers which he considered necessary to organize and conduct a free and impartial plebiscite. The Commission further proposed that all human and political rights should be re-established and guaranteed; that the return of refugees should be organized by two commissions to be nominated by the Governments of India and Pakistan respectively; that the question of the final disposal of the armed forces which are in the State of Jammu and Kashmir should be solved by the plebiscite administrator and the Commission in consultation with both Governments and the competent authorities; finally that the plebiscite administrator should report the result of the plebiscite to the Commissions and to the Government of Jammu and Kashmir, and that the Commission should inform the Security Council whether the plebiscite had been free and impartial.

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The Commission put these proposals before the two Governments and decided to send one of its members to the sub-continent so that he might place his services at the disposal of both Governments, if any clarification or interpretation of the Commission's proposals were needed.

The representative of Colombia, Minister Lozano Agudelo, accompanied by his alternate, Mr. Samper Gomez, and the personal representative of the Secretary-General, paid a short visit to both capitals and held several conversations with officials of the Governments of Pakistan and India. In view of the clarifications which Minister Lozano offered to both Governments, I am highly privileged to announce that both Governments have accepted the Commission's proposals and, on the basis of these, have declared the cessation of hostilities in the territory of the State of Jammu and Kashmir as from 1 January 1949.

The Commission reconvened on 5 January at Lake Success, where the report of Minister Lozano Agudelo was considered and approved, where the second interim report to the Security Council was elaborated and approved, and where a resolution was adopted embodying the proposals accepted by both Governments. The Commission then resolved to return to the sub-continent in the immediate future.

If the Commission has succeeded in the first stage of its work, it is only thanks to the Governments of India and Pakistan. The Commission has been working on these proposals in Paris in close contact with the representatives of both Governments, who have offered the Commission all possible help and assistance ; and thus they have given proof of their desire to solve the problem of Kashmir in a peaceful way.

The Commission will return in a few days to the sub-continent in order to work in close co-operation with the two Governments on the implementation of part I and part II of its resolution of 13 August, and, at a later stage, it will elaborate the details of the Commission's proposals. The Commission sincerely believes that on returning to Lake Success it will be able to report to the Security Council that it

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has carried to a happy conclusion the honourable mission which has been bestowed upon it.

The President : The Security Council has just heard the statement of the Chairman of the United Nations Commission for India and Pakistan. As President of the Council, I should like to take this opportunity to express on behalf of the Council our sincere satisfaction with the report which we have now received. All members of this Council, and, indeed, all Members of the United Nations, were heartened to learn from the joint *communique* issued by the Governments of India and Pakistan on 1 January that they had accepted the proposals which had been advanced to them by our Commission, and that arrangements for a cease-fire had been made to come into effect at one minute before midnight on 1 January. This action on the part of India and of Pakistan represents a most important and encouraging event in the history of the United Nations.

The situation in Kashmir, which has been before this Council for over a year and which has been a source of grave anxiety, now seems to be on the way towards an acceptable solution. The ending of this controversy will have a profound result, not only for the good relations between India and Pakistan, but its effect will extend to peoples far beyond those territories, who will be inspired by the good example which has been set and encouraged by the fact that this very difficult and grave controversy has yielded to patience and persistent effort by the parties through the medium of an agency created by the United Nations.

In expressing, therefore, our appreciation and gratification to the two Governments whose earnest efforts for an agreement have now reached the satisfactory stage which has been reported to us today, I should also like to express the appreciation of the Council to the Commission for India and Pakistan, whose members we are privileged to have at our table today. They are discharging with every credit the exacting task with which they have been entrusted. I believe that the members of this Council would like to take advantage of this

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opportunity to hear from the representatives of India and Pakistan.

37. Text of the Speech made by Mr. Samper (Chairman of the United Nations Commission for India and Pakistan) in the Security Council Meeting No. 457 held on 17 December, 1949

I am honoured to represent the United Nations Commission for India and Pakistan before the Security Council and, on behalf of the Commission, I wish to express our appreciation for the Council's reception.

The members of the Security Council will recall that, when the Council received the Commission in Paris in November 1948 [*382nd meeting*], conversations were underway looking towards an agreement between the Governments of India and Pakistan on the principles relating to a free and impartial plebiscite in the State of Jammu and Kashmir, and that the result of these conversations was subsequently embodied in the Commission's resolution of 5 January 1949 [*S/1196, paragraph 15*].

The Security Council is aware that the Governments of India and Pakistan, on their own initiative and before the Commission had reached the Sub-Continent again, made the cease-fire order effective as of 1 January 1949. The Commission is pleased to report that the high commands of the Indian and Pakistan Armies made every effort to avoid incidents and violations of the cease-fire during the very difficult time when no line as such existed, and that it was due largely to their attitude of conciliation and understanding that the military conference in Karachi in July of this year led to the agreement on a line. The task of demarcating the line was achieved through the assistance of United Nations military observers under the Commission's military adviser. The immediate and vital objective of the Security Council—namely, the cessation of hostilities in the State of Jammu and Kashmir—has thus

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not only been achieved, but ensured, through the co-operation and the good will of the two Governments.

The Commission, unfortunately, cannot inform the Security Council that substantial progress has been made in the implementation of the succeeding parts of the Commission's resolutions of 13 August 1948 [*S/1100 paragraph 75*] and 5 January 1949. After eight months of negotiations, the Commission has deemed it advisable, having in mind the importance of continuing an active movement towards a solution of the problem, to refer the matter back to the Security Council. We believe that the parent body will more easily find means for making the adjustments and modifications which today have become necessary for the execution of the commitments and agreements entered into by the two Governments.

The Commission's third interim report [*S/1430 and S/1430/Add. 1 and Add. 2*] has been before members of the Security Council for several days now, and I do not believe it will be necessary to take up the time of the Council by going into a lengthy expose of the contents. Members of the Council are aware that, throughout eight months, the Commission endeavoured to mediate the differences which existed in the way of implementing part II of the first resolution dealing with the truce and principally concerned with the withdrawal of troops [*S/1100, paragraph 75*]. The Commission maintained direct contact with the two Governments individually in New Delhi and in Karachi. It instituted sub-committees. It drafted truce terms of its own, which were presented to the two Governments and which, in the light of the response of the two Governments, were modified in so far as this was possible, keeping in mind the framework and the principles which were our guides. The Commission also suggested a joint political meeting with the two Governments for the purpose of reaching agreement on the truce; this meeting was subsequently cancelled by the Commission. Finally, in a last endeavour, the Commission asked the two Governments if they would be willing to submit to arbitration

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the differences arising between them as regards the implementation of part II of the resolution of 13 August 1948.

The third interim report endeavours to set forth objectively, impartially and comprehensively the reasons for the unsuccessful outcome of the negotiations, which cover the period from February to September 1949. It has been the Commission's intention to show how the strict letter of previous commitments has become more and more rigd in a changing and dynamic situation, and how questions which, in the light of the over-all problem and of the objective pursued by the two Governments and by the United Nations in the dispute, might be considered as of lesser importance have, in fact, impeded positive action on the part of the two Governments, in spite of their desire to proceed to a settlement.

The facts of the case are clear. The main issues stand well defined. The Commission believes that three of these issues are the most important : first, the withdrawal of troops from the State, which is essential for the creation of conditions for a free and impartial plebiscite : secondly, and closely linked, the disposal of the *Azad Kashmir* forces in the western part of the State of Jammu and Kashmir ; and thirdly, the administration and defence of the northern area of the State.

When this information at hand gathered from the past experience of the Commission, it is our hope that future action under the auspices of the United Nations and with the co-operations of India and Pakistan may be facilitated. Should this prove to be the case, the Commission will then have served an important and useful purpose in furthering the solution of this dispute.

In the conclusions of the report, the Commission has described the spirit which animated not in drafting that report. It also has expressed the belief that the present pattern, as it stands, is outmoded and unsuited in respect of questions of timing and method, and that this pattern should be made freer and more ample for mediation to be effective. The Commission is of the opinion that a single individual can now more expeditiously undertake what might be termed the third phase of the Kashmir dispute. It has so recommended

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to the Security Council and hopes that consultations with the representatives of India and Pakistan will take place to this end.

I have the privilege formally to present for the consideration of members of the Security Council the third interim report of the United Nations Commission for India and Pakistan. The report was prepared in Geniva and was signed there by four of the five members : the representatives of Argentina, Belgium, Colombia and the United States of America. The representative of Czechoslovakia reserved his position at the time of discussion of the report until a later date. At a meeting of the Commission held yesterday afternoon at Lake Success, the representative of Czechoslovakia presented his delegation's minority view [*S/1430 Add. 3*].

Before concluding these brief remarks, may I express the Commission's gratitude to the Governments of India and Pakistan for the courtesy, consideration and warm hospitality which they have extended to the Commission during its stay on the Sub-Continent. We are convinced that both Governments wish to find a peaceful and a final solution of this dispute and that it is the intention of the Governments of India and Pakistan to continue to co-operate with the United Nations for this purpose.

The Commission and its Rapporteur, the Belgian representative, of course remain at the disposal of the Security Council and its President.

38. Text of the Speech made by Mr. Sunde (Norway) in the Security Council Meeting No. 457 held on 17 December, 1949

First of all, I should like to compliment. Mr. Samper on his lucid exposition of the work of the United Nations Commission for India and Pakistan. His statement well supplements the Commission's excellent report of 5 December. I believe that I represent the general feeling of the Security Council when I praise the Commission for its report.

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It is succinct, yet complete and comprehensive, and testifies clearly to the unwavering effort of the Commission to carry out its difficult and pressing task in a spirit of fairness and impartiality which does credit not only to the Commission itself but also to the United Nations.

Nevertheless, the most important part of the Kashmir problem still remains unsolved. Let us not, however, forget the very real progress that has been achieved by the Commission. There is no more fighting. A cease-fire line has been drawn and agreed to by the opposing parties. This is no small achievement in itself, and it is all the more encouraging because it strengthens our confidence that the parties which are facing each other across this precarious line want peace, as do all the rest of us, and that they are ready to explore together all avenues by which that peace can be attained.

It serves no purpose, however, to close our eyes to the fact that an impasse has been reached on the main avenue along which the mediation effort of the United Nations has so far progressed. It seems to me that the time has come to stop and take new bearings, and I am wondering whether some new technique or approach might not be found by which the need and earnest desire of the parties for a solution could be translated into the final agreement for which we are all hoping. I frankly doubt the utility of threshing out again in the Security Council the manifold and complex issues which are at stake in this case. Tentative suggestions swiftly become unalterable opinions when they are expressed in this Council, and arguments advanced in the heat of discussion have a tendency to become vested with the habiliments of national prestige. Such a discussion might yet become necessary. But would it not be better first to explore another approach, another avenue, or—let me say frankly—a short cut ?

We have this month as our President the representative of a country which is closely related to both the parties by the ties of friendship and common interest which prevail in the Commonwealth of Nations. Our President possesses also to an eminent degree the authority, as well as the broad-

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minded impartiality so necessary for the reconciliation of opposing points of view. It is my suggestion, therefore, that the President should meet informally with the two parties and examine with them the possibility of finding a mutually satisfactory, basis for dealing-with the Kashmir problem. This procedure was adopted at various times during the first four months of 1948 and led to the Council's resolution of 21 April of the same year [*S/726*]

By adopting this suggestion we should also, in my opinion, take full advantage of the fact that Pakistan and India are represented at the headquarters of the United Nations by such eminent statesmen and diplomats as Sir Mohammad Zafrulla Khan and Sir Girja Shankar Bajpai, who have no superiors and few equals in the art of negotiation and conciliation.

In conclusion, may I say that if my suggestion is adopted we should request the President to report back to the Security Council for its consideration any proposal which might develop during his meetings with the parties.

39. Text of the Speech made by Sir Alexander Cadogan (United Kingdom) in the Security Council Meeting No. 457 held on 17 December, 1949

In the first place I should like to endorse warmly what has been said by the speaker who preceded me in tribute to the Commission and to its report. It seems to me that the members of the Commission have done a very excellent, conscientious and useful work, of which we may take advantage.

In the second place, on the matter of procedure which has been raised, I should like to support very strongly the suggestion made by the representative of Norway ; namely, that the President should forthwith endeavour, in consultation with the parties, to find a way of achieving the agreement which we all seek. It seems to me that that is a practical and efficient way of working. Both the parties and everyone seated at the Council table have complete confidence in the

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ability and integrity of the President, and I should hope that, if he agrees to take that course, and if the parties, as I am confident they will, also agree to it, it might lead to excellent result.

As the representative of Norway has pointed out, that does not derogate in any way from the powers of the Security Council. It does not remove the matter in any way from its purview : it merely prepares the work for it in the most efficient manner possible. Naturally, every proposal will come back to the Council for sub-mission and find decision. The Council remains master of the proceedings. But I do think that the procedure that has been proposed by the representative of Norway would conduce best to a satisfactory and, I should hope, a rapid agreement, and if it is agreed that that procedure should be tried it will have, I am sure, our very best wishes for its success.

40. Text of the Speech made by the President General Mc Naughton (Canada) in the Security Council Meeting No. 458 held on 29 December, 1949

The Council will recall that at our last two meetings it was agreed to employ simultaneous interpretation for all statements made by members of the Council and by other representatives and to use consecutive interpretation only for procedural matters and when we came to a vote on any draft resolution which might be submitted to the Council. I think that normally this is a very useful procedure which we have come to adopt. But the situation with which the Council is faced today is unfortunately not normal, and I think that in consequence some modification would be advisable. The difficulty is that, over the last few days, telegraph and telephone communication with the capitals of India and Pakistan have proved difficult and there have been delays in the transmission and receipt of important messages. The result is that, despite every endeavour by all concerned, I have not been able to place myself in a position to distribute a report on these negotiations in advance of this meeting.

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Moreover, I should like to emphasize both the importance and the delicacy of the negotiations which have been undertaken during the past fortnight on behalf of the Council. My statement and the discussion which follows it in the Council should therefore, in any opinion, be given the facility of consecutive interpretation, in order that all members may have the best opportunity we can provide for consideration of the matter. I therefore suggest that, during this meeting of the Council, we should adopt the system of consecutive interpretation for all statements made by members of the Council.

As there is no objection to that procedure, I shall consider it adopted.

I should like now to make a brief statement as President, reporting on my consultations with the representatives of India and of Pakistan.

The Security Council will recall that at our 457th meeting, held on 17 December 1949, the representative of Norway introduced a proposal that "the President should meet informally with the two parties and examine with them the possibility of finding a mutually satisfactory basis for dealing with the Kashmir problem". This proposal was adopted by the Council by a vote of 9 in favour with 2 abstention. I therfore undertook to accept the responsibility assigned to me, and thereafter to call the Council together as soon as I had anything to report which might merit consideration.

Pursuant to this decision of the Security Council, I have, since 17 December, held frequent meetings with the representatives of India and of Pakistan individually, in a very serious endeavour to find a basis for a solution of the difficult question with which we are faced. I have also had the benefit of a meeting held on 20 December with the members of the United Nations Commission for India and Pakistan; with Mr. Colban, who has been with the Commission as the personal representative of the Secretary-General; with General Delvoie, Military Adviser to the United Nations Commission for India

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and Pakistan, and with Mr. Marin, the Commission's legal advisor.

During the course of my meetings with the representatives of India and of Pakistan, and at their request, I undertook to formulate a proposal for submission in writing to the parties for consideration by their respective Governments. The various clauses of this proposal were put through a process of prolonged and detailed preliminary discussion with the parties in the draft stage. I submitted the proposal to the two parties on Thursday, 22 December, and a copy of it has been distributed to members of this Council.

I have naturally had to study many aspects of the problem, and, in my proposal, I have sought to take as basic the practical task of bringing about conditions in which the plebiscite could be held. The proposal is based firmly on the principle originally offered unilaterally by the Government of India in a far-seeing and statesmanlik declaration and, since then, accepted and re-affirmed repeatedly by both parties: that the future of the State of Jammu and Kashmir will be determined by the freely expressed will of its people. I have therefore endeavoured, in so far as possible, to concentrate on developing, through the application of common sense and agreement, a basis for a practical and expeditious solution of this question by a plebiscite. I have intentionally avoided attempting to analyse or pronounce judgment on the rights and wrongs in the disputed issues of the past few years, except in so far as these matters need to be taken into considerations for the specific purpose of bringing about a settlement. In my judgment, a legalistic and historical approach to the matter would require the examination of a complex mass of detail, the relevance of which to arranging an early plebiscite seems at the least to be doubtful. It is my hope that the general method of approach by seeking to concentrate on the development of acceptable arrangements for the future, rather than pronouncing upon issues raised in the past, will commend itself to the members of the Security Council. Certainly, it seems to me the most hopeful course to follow, because, to a large and important extent, this method of approach does not require us

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to choose between conflicting interpretations of what has happened.

In my meetings with the representatives of the two parties, it was confirmed that, in so far as the establishment of conditions under which, in the language of part III of the resolution of the United Nations Commission for India and Pakistan of 13 August 1948 [*S/1100 paragraph 75*], "...the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people" was concerned, the three main points of disagreement put forward by the respective parties concerned : first, the Azad forces ; secondly, the question of demilitarization ; and thirdly, the Northern Area.

In the meetings which followed, after traversing the whole field of the problem I came to the view that the general plans advanced by our Commission in accordance with the Security Council's directions were appropriate to the situation. The difficulty, however, was that in one very essential part or stage of these plans the necessary agreement by the Government of India and Pakistan had not been secured, and there was therefore a block in carrying these plans into effect. The problem, therefore, was not one of formulating and putting forward a wholly new proposal, but rather of taking that part of the existing plan in connexion with which difficulties had arisen and finding ways and means, here and now, of resolving these difficulties so that the matter might go forward with the minimum change in organization or in procedure.

In thus attempting to isolate the area where agreement was lacking, I reached the conclusion that it concerned essentially the various stages of demilitarization which should take place during the period prior to the plebiscite. In my meetings with the parties, I came increasingly to believe that, if the question of demilitarization prior to the plebiscite could be treated as a unified whole, a basis for agreement might well be developed. Accordingly, the proposal I have advanced is designed to remove the block by providing the basis for an agreed programme of demilitarization, to take place before the plebiscite is held. I should like again to emphasize that the

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proposals I have submitted relate specifically to this period prior to the plebiscite, and that they do not purport in any way to supersede the functions of the Plebiscite Administrator, as set forth in our Commission's resolution of 5 January 1949 [*S/1196*]. The powers therein assigned to the Plebiscite Administrator would of course remain in full force and effect. Indeed, the object of my proposal is to advance the time when the Plebiscite Administrator will take up his duties in Kashmir and carry them through to a conclusion.

During the course of my discussions, the most detailed examination has been given to the questions of the *Azad* forces, the Northern Area, the security of the State of Jammu and Kashmir, the maintenance of law and order, the necessity for safeguarding the free expression of public opinion in the State, and to other similar important points which have been the subject of long previous debate between the two parties. The detailed examination of these points reinforced my view that the question of demilitarization prior to the plebiscite must be considered as a whole and that, if the parties could agree on a programme of progressive demilitarization, the essential requirement leading to conditions requisite to a free and impartial plebiscite would have been established and the way would be open for the Plebiscite. Administrator to discharge the functions which have already been entrusted to him. The provisions contained in my proposal do, in my judgment, provide the basis for a fair and equitable programme of demilitarization which would meet the legitimate interest of both parties.

I should like to emphasize that in this proposal, as in many similar cases, it is not to be expected that all its provisions would be agreeable to both parties. Yet the solution of the Kashmir dispute depends, in my opinion, essentially on a spirit of adjustment, and it was in this view that my proposal was put forward.

The task of drafting a proposal of this nature has not been an easy one, and I have had to call on the close and continued attention of the parties as well as of the staff which has helped me in this work. Every word of this proposal has

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been examined with great care and discussed during the drafting stage with the respective parties. Its provisions were repeatedly re-drafted in an effort to obtain the maximum degree of equity and acceptability to both sides. I am sure that the necessity for this procedure, time-consuming as it has been, will be apparent to members of the Security Council and I hope, therefore, that my colleagues will not think that I have imposed unduly on their patience.

I had intended, with the full assent of the representatives of India and of Pakistan, that the procedure to be followed thereafter would be that, once definite comments or suggestions for amendment to my proposal had reached me from both India and from Pakistan, I would arrange for the simultaneous interchange of their comments. Each party would thus be in possession of the explicit views of the other side. I had then intended to see their representatives separately with a view to endeavouring to narrow the differences, in so far as might be possible, in discussions with them. It would be, I thought, by this process that agreements on matters of substance would be incorporated into the proposal. The text would also be subject to drafting changes which might be required to ensure that the intent had been correctly reflected in its terms.

Unfortunately, the difficulties of communication with the Sub-Continent, to which I have previously referred, have resulted in delay in the receipt of the texts of the two replies. One I received yesterday and the other only today. The process of interchange will therefore not be completed until later on today, after this meeting. Moreover, I believe that in this present stage of negotiation it is certainly advantageous to give the parties adequate time for consideration of all aspects of each other's suggested amendments before requiring them to take up public positions from which it might be difficult to recede.

What is now required, I think, is that the parties should proceed with their negotiations under whatever auspices they or the Council may desire. For this purpose the proposal which have been put forward, and the amendments which have

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been submitted, will serve as an appropriate basis from which, I hope, in due course agreement may be reached.

I believe that my statement reflects accurately the principles which have guided me in the preparation of the proposals which I have submitted to the parties. I should like to conclude by expressing my very deep sense of appreciation to the representatives of India and Pakistan for the courteous attention which they have, one and all, given to me in the conduct of these discussions, and for the great care they have taken in providing me, as promptly as was possible, with all the information which I felt I required.

41. Text of the Speech made by Mr. Sunde (Norway) in the Security Council Meeting No. 458 held on 29 December 1949

Since it was my suggestion which led the Security Council to impose upon the President the arduous and delicate task of conciliation, I think it is also incumbent upon me to thank him for the untiring and selfless devotion with which he has proceeded with the discharge of his mandate. What I called the "short-cut" in terms of the history of the Kashmir dispute has turned out to be long indeed in terms of the sacrifices which it has entailed for the President. At the time when most people were enjoying a holiday, he went about his important task with complete disregard for his personal convenience and in a spirit of whole-hearted devotion to the interests of the community of nations.

His statement today makes it clear to all of us that he has made every effort which was humanly possible in order to clarify the issues involved in the Kashmir dispute and that he has succeeded in defining clearly the areas of disagreement. His proposal for a basis of agreement, in my opinion, cuts across those remaining areas in a fair and equitable manner. I shall not presume to embark upon a detailed evaluation of that proposal. It can, of course, not be judged entirely on its intrinsic value; the controlling consideration must be its effect upon the life and happiness of the population of the disputed

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area itself and upon the vital interests of the two great nations of India and Pakistan. I do not have the knowledge of Jammu and Kashmir or of their tangled history which would make it possible for me to judge of the merits of the opposing claims to the territory. However, the very remoteness of my country from the area in question and the fact that my Government entertains equally friendly relations with both the parties to the dispute, make it possible for me to view the problems with no other interests in mind than those of justice and peace.

Besides the establishment of the cease-fire line, the important fact which stands out greatly to the credit of the Commission and of the parties themselves is that the two Governments have clearly and unequivocally agreed that the future of Jammu and Kashmir shall be determined by the democratic method of a free and impartial plebiscite. The only disagreements which remain concern the methods through which the necessary conditions for such a plebiscite could best be assured. To me it would seem tragic if disagreements in regard to these essentially procedural problems should block the settlement for which we are all hoping.

This brings me naturally to the basis of the agreement which has been suggested by the President and which he has so eloquently and so convincingly presented to us today.

His proposal has the merit of brevity. Even a cursory perusal makes it clear, however, that every word has been carefully weighed and inspired by an earnest and well-advised desire to strike a just and equitable balance between the conflicting interests.

His proposal involves no retreat from the important positions which have so painstakingly been reached by the Commission in agreement with the parties. The resolutions of 13 August 1948 and 5 January 1949 remain in force and are modified only on those points that have become outmoded and outpaced by subsequent events. On those parties—I refer especially to the new principles of demilitarization—his suggestions seem eminently fair and just, and the *Azad* forces in the Northern Area are dealt with clearly and

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equitably. In all frankness, I must say that I fail to perceive what objections the parties could have to this proposal, which could be reconciled with their common goal of a free and impartial plebiscite.

I should like to beseech the parties with all the urgency at my command to take full account of the fact that this dispute between the two countries is the vital concern of the world at large, and that they have undertaken the solemn obligation under the Charter of the United Nations to settle international disputes by peaceful means in such a manner that international peace, security and justice are not endangered.

In conclusion, I should like to suggest that the negotiations between the parties should be continued under the auspices of the President, General McNaughton. Who has already done so much to reconcile their points of view, and of whose insight into and knowledge of the matter full congnizance should be taken. It is my suggestion that the President's mediation should, if necessary, and if he is willing, continue after the expiration of his term as President.

42. Text of the Speech made by Sir Alexander Cadogan (United Kingdom) in the Security Council Meeting No. 458 held on 29 December 1949

The discussion of this matter in the Security Council today, particularly in the absence of the replies from the two parties to the proposals which the President has made to them, is necessarily in a preliminary stage. However, in the hope that it may be useful to the Security Council, I am already in the position to indicate broadly the reaction of my Government to those proposals which the President has put to the parties and which are now before the Security Council.

As the members of the Council will be aware, the United Kingdom stands in a very special relationship to India and to Pakistan. We value very greatly the friendship which we enjoy with both countries, and we are anxious to do all in

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our power to assist the Governments of India and Pakistan to reach agreement in regard to Kashmir. It has been a matter for particular regret on our part that the dispute has for so long hindered the development of peaceful and fruitful co-operation between the two Governments. The immense problems which face both of them call for the exertion of every ounce of their joint strength.

We all know how great a part these mighty nations can play in leading the people of Asia and of the world to a realization of those great hopes of a fuller and better life which all of us cherish. These facts seem to me place a special responsibility upon the Security Council in its consideration of the question of Kashmir. The work which the Security Council has done on this question during the last two years possesses a significance out of all proportion to the simple issue of Kashmir alone. It is the duty of the Security Council to strive to safeguard the peace and well-being of the peoples of the world, and we must take the account of all relative considerations, and do our utmost to display the breadth of vision which alone can enable us to fulfil our duty to the peoples of the world.

India and Pakistan brought their dispute to the United Nations in this spirit, and it is in this spirit that we must apply ourselves to the task of arriving at a settlement which will be accepted by the peoples of India and of Pakistan, and of the whole world, as just and right.

It is perhaps appropriate that the leader of a delegation of another Commonwealth country should have been entrusted by the Security Council with the task of endeavouring, by private negotiation, to arrive at basis of settlement upon which the parties might agree. Our President has, I know, laboured night and day since the last meeting of the Security Council and has spared neither himself nor his staff. We all owe a very great debt of gratitude to him and his delegation. Such knowledge as I have had of the progress of his consultations with the parties has led me to admire has fair-mindedness and his anxiety to take due account of all points of view and of the special difficulties which beset the parties to the dispute.

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I know sufficient of his work to be able to any that his whole attitude has been completely objective, and I feel confident that the representatives of India and Pakistan will agree with me that this is unquestionably the case.

The third interim report of the United Nations Commission for India and Pakistan [*S/1430, S/1430/Add. 1, S/1430/Add. 2, S/1430/Add. 3*] drew particular attention to three matters which have hindered the Commission in its work. Two of these matters, namely, the disposal of the *Azad* forces and the withdrawal of troops from Jammu and Kashmir, can, in the view of my delegation, be linked together when we reflect upon way and means of overcoming the impasse which has been reached. It seems to us that, viewed against the proper background, these matters are not of such a major character that a solution is impossible. Both Governments are, after all, pledged to determine the final accession of Kashmir in accordance with the will of the people expressed through a free and impartial plebiscite. The principles which are to govern the arrangements for the plebiscite have, moreover, been agreed by both parties and are set out in the United Nations Commission's resolution of 5 January 1949. Clearly, however, conditions for the plebiscite cannot be established so long as there is any reasonable ground for fear on the part of any of the inhabitants of Jammu and Kashmir. It is, therefore, fundamental that the armed forces in the State, no matter what their description may be, should be so reduced in number and so disposed as to afford a guarantee to the people that they will be left free to exercise their votes without any form of anxiety or pressure. I do not think that either India or Pakistan would attempt to dispute this view, and we, for our part, would certainly support any arrangements which they might agree upon for the effective reduction of the armed forces which are now established within the borders of the State.

In regard to the question of the Northern Area, my Government is impressed by the statement in paragraph 273 of the Commission's report that "the entry of Indian forces into the area north of the cease-fire line would almost

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inevitably lead to a renewal of hostilities." It is, of course, the duty of the Security Council to eliminate such a contingency. It will be remembered that all members of the Commission except one felt that the Government of India ought, in the circumstance, to be willing to waive a claim which has, in any event, to be considered afresh in connetion with the preparation of conditions for the holding of a plebiscite.

According to my information, the proposals which the President submitted to the two parties were prepared only after the closest consultation with them. They were designed to pay the utmost possible regard to the legitimate interests of the two parties to this dispute.

I do not think anyone would wish to question the general considerations which are set out in paragraph 1 of the proposals.

In paragraph 2 I note that it is laid down that the programme of progressive demilitarization shall be agreed between the parties. Having regard to the objectives which have been accepted publicly by both Governments, it seems to me impossible to quarrel with this paragraph. No doubt special considerations and interests might need to be taken into account in preparing the program, but given good will on the part of all concerned, I believe that it would be possible to achieve a result which would be equitable and acceptable.

The remaining paragraphs of the proposal seem to my delegation to be equally appropriate, having regard to the circumstances in which we find ourselves, and the history of this matter.

I would, therefore, as to the parties that these proposals seem to me to correspond broadly to the views of well-disposed and impartial observers of the Kashmir scene. I know that both the Indian and Pakistan delegations have been reflecing upon them with all seriousness, and that this matter calls for the display of great statesmanship on the part of the leaders of both countries. Let us, however, be under no illusion about the purport of these proposals. What is under consideration is not a final solution of the Kashmir

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problem, but rather the next step in a process leading towards the plebiscite which, as both side, are agreed, shall take place to decide the ulimate fate of Kashmir. The two Governments have had submitted to them well-intentioned and objective suggestions designed to achieve the end which both of them desire. It will, of course, be understood that there is no desire to exclude consideration of any modifications or amendments that would help to achieve the object in view.

In conclusion, I would extend to the President and to the delegations of India and Pakistan our good wishes in the anxious negotiations which are now proceeding. I have every confidence that it will be found possible to reach an understanding along the lines suggested by the President, which will enable progress to be made in this matter fairly and satisfactorily to all concerned.

43. Text of the Speech made by Mr. Chauvel (France) in the Security Council Meeting No. 458 held on 29 December, 1949

Although France was not one of the authors of the draft resolution which set up the United Nations Commission for India and Pakistan [*S/654*], it participated, by its vote, in the establishment of that body and has never ceased to hope for the success of its mission.

Ever since the Security Council began to consider the matter, we have felt that two fundamental reasons make it expedient for a peaceful settlement of the problem to be reached as quickly as possible. The successful mediation of a complex question which is causing conflict between two States which have only recently attained their independence could not be matter of indifference to the United Nations. The success of that mediation would constitute a promise for humanity and an example for the other Members of the United Nations.

Finally, the geographical position of the two States concerned, the size of their populations, and the splendid

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future which seems to lie before them, make the consequences of a prolonged dispute particularly serious.

We must not shut our eyes to the fact that by reason of the period of history through which we are passing and because of the great responsibility their Governments assumed when the two nations acquired independence, these States are faced with many problems. It would be regrettable if the question of Kashmir, which is one of those problems, were to be prolonged to the point of appearing practically insoluble, for we would then see India and Pakistan devoting a large part of their resources to preparing and carrying on a struggle which, because of their common history, would actually be fratricide. We would see the future of these States endangered, perhaps beyond recovery, and a magnificent promise disappearing in chaotic upheavals.

The French delegation gladly associates itself with the tribute the representatives of Norway and of the United Kingdom have paid to the President for the devotion to duty he has shown in his conduct of this matter. It been very favourably impressed by the practical and concrete nature of the proposals he has presented. It thinks that is indeed by adhering to the facts of the case and by facing the practical objective to be reached, disregarding as far as possible the sentimental respects of the problem, that progress can be achieved.

44. Text of the Speech made by Mr. Malik (Union of Soviet Socialist Republics) in the Security Council Meeting No. 458 held on 29 December 1949

Without touching upon the substance of the dispute between India and Pakistan or upon the nature of the President's proposals, which, quite obviously, can best be judged by the parties concerned, I should like to speak on some points of procedure. I would emphasize that the best course would be for the parties themselves to judge the nature of the President's proposals, since the position of those who assiduously praise those proposals, regardless of their nature and without taking

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the trouble to hear first, in the Security Council, the view of the parties interested in those proposals, is somewhat anomalous. The impression might be created that certain parties are trying to force those proposals upon certain other. The views of the parties to the dispute are not merely of secondary importance to the Security Council.

As regards the procedural aspect of the issue, the USSR delegation wishes to draw attention to points 4 and 5 of General McNaughton's proposals, which provide that the mediator shall be appointed by the Secretary-General of the United Nations, while the plebiscite administrator in Kashmir shall be appointed and shall take up his duties in accordance with the resolution of the United Nations Commission for India and Pakistan of 5 January 1949.

The USSR delegation considers such a procedure to be inconsistent with the Charter of the United Nations, the rules of procedure and established practice. The question of Kashmir is before the Security Council; therefore, the latter and the Security Council, as the organ mainly responsible for the maintenance of international peace and security, should itself appoint the appropriate subsidiary organs for mediation, arbitration, or the carrying out of any other measures for the settlement of a given dispute. The Security Council should not transfer or relegate those functions to any other organ of the United Nations, including the Secretary-General.

Similarly, it is of course impossible to endorse the decision adopted in this matter by the United Nations Commission for India and Pakistan on 5 January 1949. The Commission obviously exceeded its powers by deciding that the Secretary-General should appoint a plebiscite administrator. Such action is within the competence of the Security Council. The Commission's powers are limited to the submission of recommendations to the Security Council; it cannot take the Council's place or assume the functions of an organ having powers of decision.

To sum up, I wish to say that the USSR delegation believes that, should the appointment of a mediator or arbitrator be found expedient in the interests of the peaceful

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settlement of the dispute, it should be effected directly by the Security Council. As regards the functions and powers of such a mediator or arbitrator they, too, should be determind by the Security Council.

It goes without saying that the candidates for the part of mediator or arbitrator and of plebiscite administrator, must be acceptable to both parties, that is to say, they should be nominated with the consent of both parties.

As regards the proposal make by the representative of Norway today, here, too, considerable difficulties of a pracedural nature are involved. We know that, up to the present, the following procedure was observed in the consideration of the question before us, i.e. the dispute between India and Pakistan over Kashmir and Jammu: the Security Council heard the views of the parties, and the President of the Council then proceeded acquaint himself with and to study the question in greater detail with the object of submitting any possible concrete proposals to the Council for examination. At the preceding meeting of the Security Council, there was a definite departure from this generally accepted and established procedure. The President was entrusted with the holding of discussions with the parties, without so much as hearing their views, Experience shows that one faulty step often leads to another ; the wrong course, once chosen, will be pursued.

The meaning of the suggestion made today by the representative of Norway is that the present President of the Security Council, the Canadian representative, will be charged with carrying out the function of the President when he no longer will be President, in obvious disregard of the fact that after 1 January 1950 Canada will no longer be a member of the Security Council. The Norwegian representative has therefore suggested something for which there is no precedent : that the Security Council should empower the representative of a country which in a few days will retire from the Security Council to continue to exercise functions which no longer pertain to him, that is to say, functions which in this matter have heretofore been performed by the President of the Security Council. This would surely be an unprecedented

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situation. Indeed, the Council would be placing the Canadian representative in an embarrassing, not to say, delicate, position.

Such a state of affairs would be an innovation, not provided for either in the Charter or in the rules of procedure, and inconsistent with the methods of work of the Security Council.

Until now the Charter has recognized two categories of members of the Security Council : permanent and non-permanent. The Norwegian representative is in fact asking the Council to establish a new and third kind of membership : an extended membership, as it were. He is actually suggesting that the powers of the Canadian representative should be extended beyond 1 January 1950, so as to permit him to handle the affairs of the Security Council not only after the expiration of the term of his powers as President of the Security Council, but also after the country he represents will have ceased to be a member of the Council. This would naturally be putting the Canadian representative in an extremely delicate position, to say nothing of the fact that it would be acting in contravention of the Charter, the rules of procedure, and the accepted practice.

Consequently the USSR delegation can see no grounds for supporting the suggestion of the Norwegian representative.

I would remark that lately there have been too many violations of the Charter and of the rules of procedure both in the sessions of the General Assembly and in other organs of the United Nations. The USSR delegation does not wish to be a party to yet another violation. Those who have the interest of the United Nations at heart and who respect the Charter and the rules of procedure will certainly be unable to support such a suggestion. The decision, of course, rests with the majority, which is free to decide one way or the other. Nevertheless, no matter what decision the majority takes, the Security Council cannot consider it as forming a precedent.

Such are the brief remarks on procedure which the delegation of the Soviet Union wished to make at the present stage of the discussion.

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45. Text of the Speech made by Mr. Sunde (Norway) in the Security Council Meeting No. 467 held on 24 February, 1950

It is with considerable uneasiness that I have followed the developments in the Kashmir case since the Security Council resumed consideration of it in December last. The valiant efforts of General McNaughton have failed to bridge the gap between the positions of India and Pakistan, and the poison from this festering wound in the relations between the two great nations is almost daily breaking out in new exacerbated disagreements.

At the Council's [*458th meeting*] on 29 December 1949, I addressed myself particularly to General McNaughton's proposal. His suggested basis of agreement seemed to me, I said eminently fair and just, and I added that I failed to perceive what objections the parties could muster against the proposal that would be reconcilable with their avowed common goal of a free and impartial plebiscite. I purposely couched my statement in cautious terms because I realized that it would be unwise to attempt a final and categorical evaluation as long as the parties themselves had not expressed their opinions.

Since that meeting we have heard long and carefull argued submissions from both parties. These submissions have covered parctically all aspects of the Kashmir conflict. Their important burden, howevar, has been the agreements for and against the McNaughton proposal. Today we have an adequate basis for judging that proposal and the parties' reactions to it. I feel, therefore, that as members of the Security Council we have a duty, at this stage, to express our opinions clearly and forthrightly. Only in this way will it be possible for the Council to help the parties towards the elaboration of a just and workable solution.

I have listened to the statements of the parties with keen attention and have studied the verbatim records [*463rd, 464th, 465th and 466th meetings*] with scrupulous care. I have

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also endeavoured conscientiously to keep an open mind to all the arguments in order not to allow myself to be prematurely persuaded by any particular line of reasoning, however convenient it might seem. But now the time has come for a final appraisal, and there is no longer any doubt in my mind as to whose reasoning has the best foundation of fairness and justice. It is General McNaughton's.

I do not mean to say that General Mc Naughton's proposal ought to be accepted by the parties without the slightest change. Both parties have proposed amendments to it, and it is possible that some of its provisions might be improved upon. But as for the essential features and the approach to the problem, I am firmly convinced that General Mc Naughton is right.

His proposal proceeds from the obviously correct point of departure : India's and Pakistan's agreement that the future status of Jammu and Kashmir shall be determined in accordance with the will of the people. This agreement, first briefly stated in part III of the 13 August 1948 resolution [*S/1100 paragraph 75*] and subsequently elaborated in greater detail in the 5 January 1949 resolution [*S/1196 paragraph 15*], is not merely an important part of the edifice which has been labouriously built up by the Commission in the two resolutions ; it is the keystone which carries the whole structure and to which all the other parts are intimately related.

This does not mean that the other parts of the structure of agreement should be discarded or disregarded : on the contrary. On this point also I agree with General Mc Naughton. The substantial measure of agreement on fundamental principles which has already been reached between the two Governments under the auspices of the United Nations must be preserved.

We must bear in mind that it was under the terms of this agreement, incorporated in the two resolutions of the United Nations Commission for India and Pakistan which I have just mentioned, that cease-fire orders were issued by the opposing parties on 27 January 1949 [*S/1196 paragraph 14*]. The cease-fire agreement of 1 July 1949 [*S/1430, Add. 1,*

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annex 26], completely democrated on the ground, is also based upon and integrated into the same structure. Any attempt to byposs or whittle away its basic principles would jeopardize the cease-fire which has so painstakingly been established by the Commission.

We know from the Commission's own admission but a certain part of this structure has been rendered unsound and inadequate by subsequent changes in the economic situation. This, after all, is not very surprising. It would have been a miracle if an agreement desired to cover a short transition period had retained a full validity after its implementation had been delayed for more than to year. The problem is not a onathematical equation but one which concerns human beings who grow and change and whose power constellations are in a state of constant flux.

It seems to me, however, that the main structure of the agreement, its sustaining principles, remain undamaged, and this applies specifically to the keystone, the plebiscite provisions. With goodwill on both sides it should be possible to localize the damage and to replace the outmoded parts by new provisions which take full account of the changed situation.

There is one important condition, however. The new provisions must be so designed as to fit into the existing edifice. The whole agreement as it stands will be put in jeopardy if the parties, or one of them, press for new provisions which run counter to the structural principles. And the essential principle is of course—I think it bears repeating—that the future status of Jammu and Kashmir shall be determined in accordance with the will of the people.

Every argument which bypasses or disregards this agreed objective is not only irrelevant at this stage but potentially destructive of the solid body of agreement which has been achieved. And this is undoubtedly what General Mc Naughton had in mind when, in his proposal, he deprecated unprofitable discussion of past issues.

I agree that it is not always easy to determine which agreements are, and which are not, relevent to the issue which

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remain unresolved. It does not seem difficult, however, to prune away a number of arguments as entired unrelated to the remaining issues.

The unresolved issues, as we all know, relate to part II of the 5 August 1949 resolution dealing with the demilitarization prior to the plebiscite period. Certain principles are set forth in this part of the resolution which form the accepted basis for an agreement, the details of which remain to be worked out. Some of these principles have become defective and inadequate as a result of subsequent development; when those principles have been replaced by new ones which take account of the new situation, the structural skeleton will have to be filled out with the masonary of necessary details in order to become an organic whole.

This remaining task should be comparatively simple if the parties keep firmly in mind its nature and limitations. The problems will become insoluble, however, if the parties go beyond the immediate issues and press arguments which tend to negate the structural principles of the existing agreement.

In this important respect it seems to me that both the parties have erred. Arguments for and against the conclusive legal effect of the Maharaja's letter of accession to India seem to be irrelevant at this stage. The same applies to arguments tending to show that economic and strategic factors, or factors relating to the population's dominant religious allegiance, favour accession to one of the parties rather than to the other. Such arguments are not only irrelevant; they are harmful because they undermine the main principle of the agreement which has been achieved. It is for the plebiscite to determine the ultimate fate of the State.

I would like to add that this principle, this keystone of the whole structure, has an importance which transcends the obligatory force it derives from the consent of the parties. The principle has its intrinsic value because it embodies the only criterion for determining Kashmir's fate which is compatible with modern democratic ideals.

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It should be borne in mind that the unsolved problems concern only the practical procedures through which demilitarization can be carried out on both sides of the cease-fire line in order to bring about conditions which will enable the Plebiscite Administrator to take over. The parties should therefore faithfully abstain from advancing, let alone pressing, arguments which are incompatible with or unrelated to this objective. Within this rather narrow compass of legitimate disagreement I see only two important considerations against which the opposing arguments should be weighed and measured. One is that the demilitarization must be carried through as quickly as possible. The other is that the demilitarization should be so staged as to eliminate fear at any time on the part of the people on either side of the cease-fire line. On this point again I find myself in full agreement with the main principles of the McNaughton proposal.

In conclusion, I beg the parties again to consider their positions and to take full account of their solemn obligation under the Charter of the United Nations to settle their international dispute by peaceful means in such a manner that international peace and security, and justice, are not endangered. It would be a tragedy with unforesable consequences if they should give up their attempt to reach an amicable solution ; it would be doubly tragic because a clear path towards an equitable and honourable settlement is so clearly indicated in the Mc Naughton proposal.

46. Text of the Speech made by Sir Alexander Cadogan (United Kingdom) in the Security Council Meeting No. 467 held on 24 February, 1950

Members of the Security Council may recollect that in the course of the brief debate on this subject which took place on 29 December [*458th meeting*] I made a statement concerning the attitude of the United Kingdom Government and indicated its general support for the proposals made to the parties by General McNaughton. I do not propose to repeat again today the considerations which I put forward then, and which

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have been fully endorsed by my Government, which has now introduced me to add certain observations in the light of the statements which have been made to the Council by the representatives of India and Pakistan.

All of us here must be agreed this issue is one of importance to us all, and one which demands that we should proceed unflinchingly to do what we conceive to be right. All of us must wish to maintain and extend the power and prestige of the United Nations and the Security Council. We must do all that we can to make effective the code of good conduct that is contained in our Charter. Men and Women throughout the world yet place their hopes in us and we must not fail in our duty to those people.

The Kashmir dispute has been before the Security Council now for over two years. Much work has been done, work in the Council itself and by the Commission, and although a solution is not yet at hand, that work has been by no means fruitless. Here is an area of agreement, not so large as we should wish or might have expected, and we must think twice before we discard any solid element of agreement on which a settlement might be built.

I do not mean that we must be rigid or inflexible. We are here to deal justly and impartially with matters which come before us, and we must, of course, take due account of all developments which may be relevant. But if this Council is to function effectively now, and in the days to come, we must insist that its authority be respected and its recommendations be not made simply to be discarded or ignored.

I say this at once because I have felt there is a tendency to reopen the earlier history of this matter in a way which cannot contribute to the peaceful settlement which it is our duty to devise. General McNaughton in his statement on 29 December expressed the view that any legalistic or historical approach to the matter would entail the examination of a complex mass of detail. I have no wish to enter into such past history.

The representative of Pakistan submitted that the history of the Kashmir dispute did not begin with the influx of

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tribesmen in October 1947. Any attempt to fix the initial responsibility for the present state of affairs would involve investigation of the claim made by Pakistan that the fighting began when the Maharaja made unprovoked attacks on his Muslim subjects. I do not express any view on that claim, but I refer to this point as an instance of the dangers that lie in harking back to the detailed history of this matter. It seems to me that we may risk losing sight of our real purpose through becoming involved in the discussion of numbers of points which are not directly relevant to a practical solution of the problem. I know that it has been argued that proposals must be examined against the background of past events. In many negotiations that is the case, but we must remember that, in this case, if we can achieve what we desire, that is, to enable the people of Kashmir freely to express their wishes, by which the fate of the State will be decided, all this past history will then have become irrelevant, and I hope the slate could then be sponged clean.

What we are discussing is really a question of mechanics, of preparing for that free expression of the will of the people. Both India and Pakistan have given their agreement to a procedure which will enable the people of Kashmir to make known their views. I am indeed glad to note that in their statements to the Council the representatives of India and Pakistan seemed to be in full agreement with the objectives set out in sub-paragraphs (*a*), (*b*) and (*c*) of paragraph 1 of General McNaughton's proposals [*S/1453*].

Let us refresh our memory of paragraph 1. Sub-paragraph (*a*) refers to the intention that the future of the State shall be determined by a free and impartial plebiscite. But, more than this, the clause provides that the plebiscite should take place as early as possible. I repeat : as early as possible. Sub-paragraph (*b*) underlines the desire of both Governments to settle the dispute in accordance with the freely expressed will of the inhabitants. Surely we have in these two clauses, to which both the Indian and Pakistan Governments subscribe, a most important principle. Both Governments acknowledge that the will of the people is to be decisive, and they agree

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that the people should be given an opportunity freely to express their desires as quickly as is found practicable.

Far be it from me to brush aside legal considerations when they are relevant, but can it be argued that the hopes and aspirations of the people of the State are in any way dependent upon the question of who exercises sovereignity over Kashmir at this time ? Then, again, there are the questions of the disbanding and stationing of troops. Can it be the wish of either side to lay itself open to charges that it is preventing the expression of the will of the people in a free and unfettered manner ? Can either side afford to prolong the present deadlock by insisting that this or that force should be disbanded at this or that time ? One merely has to pose these questions to know the answers.

How, then can either side feel justified in pursuing points such as these which can do no good and which, unintentionally I know, merely serve to frustrate the early expression of the will of the people ? Delay is dangerous. In this case, it is no healer. Unless positive action is taken without delay, the present malady, which besets not only the unfortunate State of Jammu and Kashmir but also the whole sub-continent, may become incurable. Can it be anyone's wish to allow legal points of doubtful relevance to stand in the way of progress ? Here, again, one merely has to pose the question to know what the answer will be. If safeguards or guarantees are required, it is up to the United Nations to provide those safeguards or guarantees, and I see no reason why we should not be able to do anything which is likely to be needed.

I would like to remind the Council of some words uttered by the Prime Minister of India, a great statesman whose wisdom we all admire. He said, in November 1947 : "We have declared that the fate of Kashmir is ultimately to be decided by the people. That pledge we have given, and the Maharaja has supported it, not only to the people of Kashmir but to the world. We will not and cannot back out of it". In the same statement, the Prime Minister used these words also : "As soon as Kashmir is free from the invader, our troops will have no further necessity to remain there, and the

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fate of Kashmir will be left in the hands of the people". These are the words of a noble and wise statesman. Let us not allow ourselves to become so blindly by lesser matters that we lose sight of these principles altogether.

Considerable progress has been made towards the fulfilment of the undertakings given by the Prime Minister of India. With the agreement of both parties, a man of world-wide renown has been nominated by our Organization to administer the plebiscite. Moreover, both parties have agreed to the performance by our nominee of certain functions, including the final disposal of armed forces remaining in the State, as a preliminary to the plebiscite. These seem to me to be very substantial steps towards the eventual settlement of this matter, and I can see no valid reason why we should not be able to complete our task along the lines on which we have so far proceeded. It seems to me that the time has come for the Council to give give a lead in the matter, and for the members to indicate frankly what, in their view, might break the present deadlock and contribute to the achievement of a solution which would be just and equitable and which they would expect both parties to accept.

I cannot attempt to conceal the disappointment of my Government that the proposals put forward by General Mc Naughton to the two parties were not accepted. My Government feels that these proposals indicate broadly a basis upon which this matter could be disposed of quickly and fairly. I must confess that we are very sorry to learn that the replies of the two Governments showed that the high hopes which we had entertained in regard to the outcome of General Mc Naughton's discussions could not be realized.

It is now the duty of the Council to devise other means of carrying forward their plans. I think there can be no doubt in anyone's mind about the attitude of the United Kingdom after the remarks I have made this afternoon. My delegation has had the advantage in these last few days of consultation with a number of other delegations, and we have been able to put our name to a joint draft resolution which is being submitted this afternoon for consideration [*S/1461*]. I should

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wish it to be quite clear that, in acting as one of the sponsors of this draft resolution, my delegation does so in the belief and on the understanding that the procedure indicated therein is directed towards the earliest possible implementation of the agreement existing between the parties in regard to the ascertainment of the will of the people. In my view, both the Government of India and the Government of Pakistan have accepted an obligation to extend their full and unreserved co-operation in the preparation of arrangements which will enable the people to express their views through the democratic method of a free and impartial plebiscite. It is, therefore, incumbent upon both Governments to make every effort towards putting into effect the arrangements set out in the Commission's resolution of 5 January 1949.

To turn to the question of demilitarization, members of the Council will observe that the draft resolution submitted to them does not follow General Mc Naughton in his suggestion that agreement should be reached in New York in regard to the matters listed in paragraph 1 of General McNaughton's proposals. If the Council decides to appoint a representative of the kind suggested in the draft resolution, I should consider it appropriate to leave it to him to decide upon the procedure he intends to adopt. I should hope that he might find it possible to begin negotiations here in New York.

I would conclude by commending the draft resolution to the Council and to the parties. No doubt one or other of these, or even both, will find in it things that they would have changed; that must always be the case in any attempt to bridge differences of opinion, but I trust both parties will recognize in this draft resolution a sincere attempt on the part of members of the Security Council to formulate proposals that will be fair and effective. We are, I hope, on the way to a solution of a difficulty that has been embittering for too long the relations between the two countries concerned. It is not, unfortunately, the only question at issue between them, but if it could be satisfactorily settled much else might follow. The ultimate method for settlement is agreed; we are only hampered and obstructed by differences of opinion as to how we can come to achieve that settlement, and I most devoutly

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hope that the deliberations of this Council, at this time, may make a useful contribution to the removal of these differences.

47. Text of the Speech made by Mr. Chauvel (France) in the Security Council Meeting No. 467 held on 24 February, 1950

My delegation had followed with the keenest sympathy the efforts at conciliation General McNaughton made having his presidency of the Council in accordance with the Council's action of 17 December 1949 [*457th meeting*]. The French delegation had encouraged him to continue his efforts even after the expiry of his term of office as President and as a representative to the Council, and has therefore studied the report of his activities with particular attention.

I cannot conceal my delegation's disappointment at taking that, once again, the conscientious efforts of a man whose impartiality and moral authority cannot be challenged, came up against the all too familiar obstacles.

The Jammu-Kashmir case was placed before the Security Council by a communication from the representative of India [*S/628*] on 1 January 1948, that is, almost twenty-six months ago today. Since then, United Nations action in the matter has consisted of four principal acts : the Council's resolutions of 20 January 1948 [*S/654*] and 21 April 1948 [*S/726*] creating the United Nations Commission for India and Pakistan and setting forth its membership and powers, and the Commission's resolutions of 13 August 1948 and 5 January 1949. The Commission itself laid down three stages in the settlement of the dispute : cessation of hostilities, organization of the truce by demilitarization of all the territories concerned, and organization of this plebiscite.

What is the situation today, twenty-six months after the question was bronght before the Council and almost fourteen months after the Commission's second resolution ?

The parties have agreed to the resolution of 13 August 1948 5 January 1949. On 1 January 1949, they effected the

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cessation of hostilities, and on 27 July 1949 they agreed to the establishment of the cease-fire line]*S/1430/Add. 1, Annex 26*]. They have accepted the principle of a plebiscite and consented to the appointment of Admiral Nimitz as Plebiscite Administrator. That is all. In other words, only the first of the three stages laid down in the resolution of 5 January 1949, the cessation of hostilities, has been completed. On the other hand, there has been no progress towards the conclusion of a truce agreement which, in practice, can be based only on demilitarization, nor, despite the appointment of Admiral Nimitz, towards organization of the plebiscite. In fact, some time past, demilitarization has been the main obstacle to all efforts ; not the principle of demilitarization, but the way to carry it out.

If we consider the different interests involved, we see that the main issue is the political allegiance of the State of Jammu and Kashmir. That issue concerns, first and foremost, the populations of those two States, and I may add, in passing, that whatever the solution of the problem, the question of refugees cannot be left out of account, as regards both their participation in the plebiscite and their ultimate settlement. It also concerns, obviously and for various reasons the two States which claim a right to those territories, that is, India and Pakistan.

I must stress, however, that whatever importance India and Pakistan may attach to the defence of their respective claims, they have a still greater interest to consider ; the cessation of the conflict which divides them and sets them against each other. In view of the present state of Asia and the world, it is unthinkable that two great countries which have recently acquired full sovereignty and have to face all the problems of organization and all the political, economic and financial adjustments following on that new status, should exhaust their strength in a struggle which has destoryed their past solidarity and compromises the solidarity which geography imposes upon them for the future. Is it possible that these two States, belonging as they do to the same great group of sovereign States, and being besides, both Members of

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the United Nations, should be unaware not only of their own higher interest, but also of that of the community of nations?

That community, the world community which we represent in this Council, can have no other wish than to put an end to a burdensome and dangerous situation and to eliminate from the map of the world and from such an important point on that map a troubled area from which tempests might blow. As against considerations of such weight, I see no principle that could properly be invoked.

The Government of India claims that it stands on a kind of legality. It consents to a plebiscite, but repudiates as illegal the authorities now in control of the northern and eastern zones. In its opinion the plebiscite must be held in a unified State under the sole authority of Sheik Abdullah. Apart from the fact that no principle of legality can stand against the will of people, it would appear that Kashmir is now divided not only by two occupations, but also by the fact that it has two Governments, each the product of uprisings against the authority of the Maharaja. While, on the Indian side, Sheik Abdullah has seized power in the name of the principles of democracy after many years of struggle and the test of imprisonment, another rebel, Mohammed Ibrahim Khan, invoking the same principles, confronts him, backed by thirty-two battalions levied from the inhabitants of the areas under his control.

In the face of such a situation, our position is clear. It is prescribed to us by the United Nations Charter. It is for the populations themselves, and for them alone, to decide their fate. They must do so in condition of security agianst all forms of pressure. It would have been desirable for the the two neighbouring States to agree on those conditions. In the absence of such agreement, there is no other way but to place the matter again in the hands of the Organization, which assumes responsibility for it. I do not see what objection there can be to this. Whatever their feelings on the substance of the issue, I do not doubt that the parties are both profoundly anxious that the wishes of the populations should be respected. It is clear enough that the United Nations does

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not want any particular solution, but a solution. Its objectivity and impartiality offer the best possible guarantee to the populations of the State of Jammu and Kashmir and, consequently, to the Governments of India and Pakistan.

That is the course to which the French delegation has faithfully adhered in this matter. In its opinion, that course must be followed in order to complete the two remaining stages of organization of the truce by the demilitarization of the territories as a whole and organization of the plebiscite.

The way in which the United Nations should take charge of the situation when the question of organizing the plebiscite actually arises will be a matter for other debates. The issue before us today is only the organization of the truce by means of demilitarization, and that was the purpose of General McNaughton's efforts and of the proposals he put before the parties. Those proposals appear eminently reasonable to my delegation. For the phase of operations with which they are concerned, they take into account the three conditions listed here by the French representative on 24 January 1948 [*235th meeting*] as follows :

> "1. The withdrawal of foreign troops from the State of Kashmir".
>
> "2. The return of the inhabitants, irrespective of their race—Hindu or Moslem—to their places of origin in that State."
>
> "3. The establishment of a free administration which would not exert pressure on the population and would give absolute guarantees of a free vote."

That, I repeat, is why the French delegation has been deeply disappointed by the reservations made with regard to those proposals ; those reservations have so far prevented their implementation.

My delegation can do nothing today but recommend them for renewed and earnest consideration by the Council and the parties. It entreats the latter to spare no effort of conciliation which might at long last ensure, in this important matter, the triumph of the principles which the Members of

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the United Nations have pledged themselves to defend and which they themselves, in the case in point, have expressly endorsed.

48. Text of the Speech made by the Mr. Gross (United States of America) in the Security Council Meeting No. 467 held on 24 Febraury, 1950

I wish at the outset to associate my delegation unreservedly with the statements which have been made this afternoon by the representatives of Norway, the United Kingdom and France.

The dispute over the State of Jammu and Kashmir is but one of many problems which have strained relations between India and Pakistan since these new nations were created by the partition of former British India. The Council will recall that, when India placed the Kashmir case before this body in January 1948 [*S/628*], Pakistan on its part submitted three other problems [*S/646 and S/646/Corr. 1*]—namely, the developments in the State of Junagadh, the recent massacres of migrating peoples in the Punjab, and the difficulties which had arisen with respect to certain partition agreements between India and Pakistan. The Council then decided, and my Government believes it was a wise decision, that all of these problems were interrelated and that a settlement of the Kashmir dispute would open the way to a satisfactory disposition of the other issues.

What has happened since? Unhappily, the differences between India and Pakistan have multiplied and spread. Today, the two countries are engaged in economic warfare which has resulted in almost complete cessation of trade between them. Such other issues as the Punjab rivers question and the '*evacuse*' property problem remain unresolved. In short, relations between India and Pakistan have markedly deteriorated.

This is no light thing. The fate of more 400 million people is involved. people who, only two and one half years

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ago, took into their own hands the governance of their new countries, with high hopes for economic and social betterment. These hopes are being thwarted by the continued tension between India and Pakistan, which retards the concentration of their talents and energies on constructive efforts.

This picture has a brighter side. The leaders of India and Pakistan know that the differences between their countries are thwarting the legitimate aspirations of their people. They have repeatedly declared that these differences must be removed, and removed peacefully. This Council can, therefore, be confident that both Governments will direct their best talents and their unremitting efforts towards the settlement of their own disputes. The Security Council stands ready now, as in the past, to assist them. If the parties, with the help of this Council, can find a solution of the Kashmir problem, my Government has faith that the good will of India and Pakistan will speedily find the means of removing their remaining differences.

The Security Council has dealt with several matters of great importance to the international community, and the body of experience which it has gained has perhaps to some extent been generalized. When confronted with a dispute involving armed conflict, the first task for the Security Council has been to obtain a cessation of hostilities. The disputants must stop fighting. This means a cease-fire, and a cease-fire line. If necessary, this Council must, as it did in the Palestine case, act expressly under Chapter VII of the Charter in insisting upon an end of hostilities.

A cease-fire, however, is merely a temporary restraining measure. It is the first essential action in removing excess heat from controversies which have passed the boiling point. The Council's experience has shown that the heat is quick to develop again when other steps looking towards a lasting settlement are not quickly taken.

The next step, after the fighting is stopped, is to draw the opposing forces away from each other and to reduce them, by degrees if necessary. As this process continues, the strain on the cease-fire line eases ; its importance diminishes ; a more

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permanent arrangement takes place, such as the armistice agreements in Palestine and the truce provisions of the Renville Agreement [*S/649, Appendix XI*] in the Indonesian case.

The wisdom gained from these and other experiences was recognized by the New Delhi Conference on Indonesia, held some thirteen months ago.

Two important lessons can be drawn from previous Security Council experience. First, the elimination of Military pressure between the parties to a dispute is partly a stop-gap measure, which must be quickly followed by a lasting political settlement. Secondly, while effectuation of a cease-fire and a demilitarized programme is a process in which this Council can, if necessary, assume the initiative, the enduring political solution is essentially the responsibility of the parties to a dispute. Their agreement and their co-operation are the indispensable ingredients.

In the case now before us, India and Pakistan have agreed to the application of this general pattern. As a result of the praiseworthy and painstaking efforts of the United Nations Commission for India and Pakistan and the co-operation of India and Pakistan, both Governments have agreed upon certain bases of settlement which are set forth in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949. The principles underlying these resolutions are : that hostilites should cease ; that the State should be demilitarized in order to establish more normal conditions of life for its inhabitants ; and that the final disposition of Kashmir should be in accord with the will of its people, to be determined by a free and impartial plebiscite. The first principle was effected by the cease-fire, worked out by the parties themselves, on India's initiative, on 1 January 1949, and by the agreement in July 1949 on a definitive cease-fire line.

Unhappily, the parties, despite the efforts of the United Nations Commission for India and Pakistan and more recently of General McNaughton, have been unable to reach agreement

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on the implementation of the demilitarization phase of the Commission's resolutions. The impediments to agreement have derived, at least in part, from conflicting claims with respect to legal and technical aspects of the dispute. For example, India's position has been based in some part on its legal claim that the State of Jammu and Kashmir has acceded to India. On the other hand, Pakistan, in addition to opposing this claim, has pointed to certain geographic factors, economic ties and communal affiliation as offsetting the claim on India.

From the outset of this case it has been evident that agreement between the two nations for an enduring settlement of the dispute must be reached on broad political grounds. The two nations at an early stage accepted the principle that the question of accession of the State should be determined by the will of the people freely and impartially ascertained under the auspices of the Security Council. For these reasons, therefore, while the Security Council and the United Nations Commission for India and Pakistan have from the beginning listened with the greatest respect to the contentions of the two parties on the legal and technical issues, they have consistently taken the position that a determination by them of these issues was neither essential nor conducive to a just settlement of the question. Thus, in seeking to advance this settlement within the existing area of agreement, we should avoid unprofitable discussion of these disputed issues and focus our attention on the pressing problems of the present and the future.

In approaching the problem of demilitarization it is important to keep these considerations in mind as a guide to our thinking. Demilitarization does not prejudge the rights or claims of the parties. It need not, therefore, rest upon those rights or claims. It is, however, an essential prerequisite for a solution of the dispute. Fortunately, the task of the Security Council in its efforts to help the parties in this problem has been made easier by the fact that both sides have agreed to the demilitarization of Kashmir and the problem is not whether there should be demilitarization, but how it shall be carried out.

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Thus, the Security Council, in the draft resolution which has been placed upon the table, and which my delegation joins Cuba, Norway and the United Kingdom in sponsoring, directs itself towards this immediate and essential objective. In the circumstances of this case it seems necessary for the Security Council to call upon the parties, as this draft resolution does, to agree on a workable plan of demilitarization and to carry out that plan as a necessary preliminary to the final stage of determining the wishes of the people of the State. The Security Council would also fulfil a duty by providing the means for helping the parties reach agreement. This would be done by appointing a representative to carry forward the work started by the Security Council and the Commission, and to supervise such arrangements for demilitarization as will be agreed upon.

The demilitarizationn proposals placed before the two parties by General McNaughton unfortunately did not prove acceptable to the Government of India. The basic principle governing these proposals are, in our judgment, fair and sound. The draft resolution proposed by the United Kingdom, Norway, Cuba and the United States would call upon the Governments of India and Pakistan to prepare and to execute a plan of demilitarization on the basis of these principles.

A basic principle of General McNaughton's proposals is that the armed forces on either side of the cease-fire line. The armed forces should be reduced in this manner to the minimum compatible with the maintenance of security and of local law and order. They should be reduced to a level sufficiently low, and should be so disposed, as not to inhibit the free expression of public opinion in a plebiscite. This principle has not been objected to by either party.

Another basic concept is that the problem of demilitarization should be dealt with as a whole. It will be recalled that the resolutions of the Commission contemplated that the local forces west of the cease-fire line, as well as local forces on the Indian side of the cease-fire line, should be disposed of during the next plebiscite period, rather than at the time of the withdrawal of Indian and Pakistan regular troops during the

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earlier truce period. This distinction in timing developed later into one of the major obstacles encountered by the Commission in reaching an agreement on demilitarization. India had, in the course of the Commission's mediation, indicated its view that the disposal of the local forces on the other side of the cease-fire line should be linked with the withdrawal of Indian regular forces.

The concept of accomplishing demilitarization within a single period, rather than the two successive periods envisaged by the Commission's resolutions, is consistent with what should be the controlling consideration in the demilitarization of Kashmir, that is, the need to minimize at all stages the possibility of a resumption of fighting across the cease-fire line. The process should therefore be so timed that at the conclusion of the demilitarization period there should be no armed force in the State with any aggressive potential.

The proposals also rest on the principle of embracing all areas of the State, including those to the north of the cease-fire line, in a co-ordinated programme of demilitarization. This is likewise, in the opinion of my Government, an appropriate principle, consonant with the essential objective of any demilitarization. The Commission's conclusions in respect of the demilitarization of the northern area are clear and, in our view, sound and practical. The Commission concluded that "the entry of Indian forces into the area north of the case-fire line would almost inevitably lead to a renewal of hostilities" [*S/1430, paragraph 273*].

The Commission's report continued [*S/1430, paragraph 275*]:

> "The situation in the northern area today is such that the posting of garrisons by the Indian Army at any point beyond those which are now held by it would result in an extension of military activities the Government of India although it need not necessarily imply an increase in the military potential which both Governments have agreed is not to take place on either side."

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I continue to quote from the next paragraph of the report of the Commission ;

> "The Karachi Military Conference of July has settled the question of the cease-fire line. The line is now demarcated and agreed to by India and Pakistan. Until such time as the conditions envisaged in the resolution of 5 January have been created and normal life begins to return to the State of Jammu and Kashmir, the line which is today a guarantee against a resumption of hostilities should be scrupulously observed by the Government of India and Pakistan, and the opposing forces should remain behind it."

In our view it is eminently fair and sound, and in fulfilment of our duty as members of this Council dedicated to peaceful settlements, to recommend to the parties that they accept a principle which strengthens the concept and value of the cease-fire line and avoids the risk of an extension of military activity.

No inference should be drawn from the fact that the Commission did not, in its resort, address itself specifically to the question of the temporary administration of the area during the period of demilitarization. It is altogether reasonable to assume that since the Commission concluded that it would not be in the interest of the plebiscite to sanction an extention of military activity beyond the established cease-fire line, the Commission believed it unnecessary to refer to a change in the administration of the area, since such a change would clearly depend upon, or involve the risk of, an extension of military activity.

I should like now to turn to that part of the draft resolution which envisages the appointment of a United Nations representative to assist in the preparation, and to supervise the implementation, of such programme of demilitarization as may emerge from future negotiations. This feature of the draft resolution also has the full support of my Government.

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It is considered judgment of the Commission that a single person can now most effectively conduct the negotiations and consultations with and between the parties.

General McNaughton endorsed and acted upon this recommendation of the Commission. In the discharge of the duties which the Security Council would entrust to such a representative, the closest and the most continuous relations with the two Governments will be necessary. The mutual understanding and confidence which should form the background of these relations can best be buit up and maintained by a single individual. In saying this, of course, I do not with to disparage the relationship which existed between the Commission and the two Governments. I merely wish to stress that continuity and the resulting accumulation of understanding so necessary to subtle negotiation, are likely to be achieved more readily by one person than by a body of diverse personalities with the ever-present risk to continuity through changes in personnel. In negotations of the present nature, shades of meaning play their part and these are less likely to be lost when stored in the memory of one individual than when dispersed, and perhaps differenly evaluated, in the minds of several.

I am privileged to join several of my distinguished colleagues on the Council in sponsoring the draft resolution which has been presented to the Council this afternoon. We have attempted as loyal members of the Security Council and as friends of both India and Pakistan, to bring to bear upon the Kashmir problem the lessons that this Council has learned in other dispute and the knowlede that we have gained of the special factors involved in the present dispute. We believe that this draft resolution derives from the principles already accepted by the parties We are confident that it will contribute to the improvement of relations between India and Pakistan by enabing them to move expeditiously toward the demilitarization of the State of Jammu and Kashmir and a final settlement of the dispute in accord with the will of the people of the State as to their permanent affiliation with India or Pakistan.

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49. Text of the Speech made by Mr. Hsia (China) in the Security Council Meeting No. 467 held on 24 February, 1950

As I listened carefully to the most able and skilful statements presented by the representatives of India and Pakistan, I became increasingly convinced of the complexity and seriousness of the dispute and with therefore to endorse the thoughtful conclusion of the United Nations Commission for India and Pakistan in which it is stated [*S/1430, paragraph 278*] :

> "The roots of the Kashmir dispute are deep ; strong under-currents—political, economic, religious—in both Dominions, have acted, and do act, against an easy and prompt solution of this outstanding dispute between India and Pakistan.

My delegation is persuaded, as was the Commission, that both Governments are "keenly conscious of their duties and responsibilities as Members of the United Nations, and that both desire a final and peaceful solution of the Kashmir question."

It is therefore our earnest belief that both Governments will allow reason and moderation to prevail in their deliberations so that some peaceful solution of the existing difficulties may be found. Meantime the situation calls for patience, perseverance and statesmanship on the part of us all. For this season I do not propose to offer any comment on the broad and complex background of the relations between the two sister Dominions, and like the Commission, I shall confine my brief remarks to the specific problems arising out of the implementation of the agreement entered into by India and Pakistan under the resolutions of 13 August 1948 and 5 January 1949. It is of course a matter of regret that these specific problems have become veritable stumbling blocks to the implementation of the truce agreement. General Mc Naughton's proposals were not acceptable because of the same difficulties. I refer to the issues of the disposal of the *Azad* Kashmir forces, the withdrawal of troops, and the

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defence and administration of the northern area. In this connexion I wish to make a general observation by underscoring the conclusion of the Commission when it says that the difficulty in disposing of these issues to the satisfaction of both Governments has been out of proportion to their real importance. It has been agreed by all parties concerned that a free and impartial plebiscite alone will give a final and peaceful solution of the Kashmir question, and that such a plebiscite should be held as soon as possible. If the method and objective are sincerely desired by both India and Pakistan, then none of these so-called issues should have any real or permanent significance, for they are only important as preliminaries to a successful plebiscite.

Let me first take the issue of the *Azad* Kashmir forces. I think the Commission has rightly pointed out that the *Azad* forces have a strength which changes the military situation and, to that extent, makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange. The Commission admits with some regret that if it "had been able to foresee that the cease-fire period would be prolonged throughout the greater part of 1949 and the Pakistan would use that period to consolidate its position in the *Azad* territory, the Commission would have dealt with the question in Part II of the resolution of 13 August" [*S/1430, paragraphy 225*].

It is also significant to note the concluding paragraph of the Commission's analysis of the problem [*S/1430, paragraph 226*] :

"It cannot be said that either side has complied with the letter of part I, section B of the resolution, which prohibits any increase of military potential by either country in the territory of Jammu and Kashmir".

It is true that the 13 August resolution made no mention of the *Azad* forces or of how and when they should be disposed of. But what is the actual difference in point of view between India and Pakistan in this matter ? On the one hand, we have the declaration by the Government of Pakistan of 30 May 1949 [*S/1430/Add. 1 annex 49*] that the disposal of the armed forces in the territory will be determined by the Commission

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and the Plebiscite Administrator in consultation with the local authorities, in accordance with sub-paragraph 4 (*b*) of the Commission's resolution of 5 January 1949. My delegation accepts this as an assurance that the *Azad* forces will be withdrawn, or otherwise disposed of, before the holding of the plebiscite. On the other hand, we have the memorandum of 18 May 1949 [*S/1430/Add. 1, annex 48*] in which the Government of India declares it to be "of the utmost importance..... [that] the discussions regarding the procedure and phasing of the disbandment and disarming should commence immediately after the truce is signed".

There seems, therefore, to be considerable agreement that the *Azad* forces should be disposed of and that this should be done before the holding of the plebiscite. If so, the issue can be readily resolved if the two Governments are able to agree upon the precise moment when the withdrawal of the *Azad* forces should begin and how long a period of time should elapse between the withdrawal of the *Azad* forces and the holding of the plebiscite. Surely, this is not such a difficult matter to arrange, if there is present the necessary good will on both sides.

The withdrawal of forces is the second issue that has blocked agreement between the parties. It is indeed unfortunate that disagreement or misunderstanding would have arisen in connexion with the withdrawal of forces from Kashmir. Pakistan holds that the withdrawal of its regular troops depends upon plans acceptable to the Pakistan Government for the synchronization of this with that of the bulk of the Indian troops; while India maintains that the timing and staging of the Indian withdrawals and the strength of Indian forces to be retained in the State are matters for settlement between the Commission and the Government of India.

The importance of this disagreement has been magnified because each side puts upon the manner of troops withdrawals a political interpretation, as if the settlement of the question of accession of the State of Jammu and Kashmir to India or Pakistan depended upon the method and timing of the withdrawal of their respective forces. Surely, both Govern-

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ments are perfectly aware of the fact that proposals with regard to the withdrawal of forces are motivated primarily by considerations of ensuring peace and order to the regions concerned, and are entirely without prejudice to the ultimate question of accession. The Commission seems to have made the right approach to the problem when, on 15 April 1949 [*S/1430/Add. 1, annex 17*] in making proposals to the Governments of India and Pakistan on the implementation of part II of its resolution of 13 August 1948, the Commission suggested a schedule, a time-table of withdrawal. In the view of my delegation, this is still the right approach to the problem. There should be agreed upon between the two Governments a comprehensive schedule of withdrawal for both the Indian and Pakistan troops. Here, it is not a question of precedence, but of practicability.

Lastly, we have the issue of the defence and administration of the northern area. In this particular controversy the Commission has been placed in a very embarrasing position by the conflicting claims of India and Pakistan. The Commission has stated very clearly in paragraph 273 of its third interim report [*S/1430*] its reasons for refusing to accede to India's claim. The relevant passage reads :

> "The authority of the State Government had not only been challenged : by 1 January 1949, the authority of the Jammu and Kashmir Government had been eliminated from the area. The entry of Indian forces into the area north of the cease-fire line would almost inevitably lead to a renewal of hostilities. In consequence the Commission could expect that the Government of India, taking into consideration the wholly temporary nature of the truce, would be willing to waive a claim which was to be decided shortly thereafter in the preparation of conditions for the holding of the plebiscite."

My delegation would make the same appeal to the Government of India. As in the question of troop withdrawal we are not prejudging the eventual ownership of the northern

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area. Let us hope the plebiscite will settle that. But at the present moment the Council's task is to prevent any renewal of hostilities and to prepare conditions for the holding of a free and impartial plebiscite.

It has been said that the Security Council is asking India to make concessions to Pakistan or asking Pakistan to make concessions to India. The Security Council is not doing that. The Security Council is not playing the part of a broker or trying to bring about a compromise or a deal between the two parties. If the Council asks either India or Pakistan to make a concession, it is not a concession to Pakistan or India, but rather a concession in the interest of the plebiscite. This is the consideration that has dominated all our thinking. My delegation has advocated from the beginning that a free and impartial plebiscite alone will give a final and peaceful solution of a dispute that has unfortunately stood in the way of friendly co-operation between two great peoples in the continent of Asia.

As regards the draft resolution submitted today by the representatives of Cuba, Norway, the United Kingdom and the United States, I wish to say that I had prepared my statement before I saw the draft resolution. Representatives will notice that I have covered in my statement a number of points contained in the draft resolution and in General McNaughton's proposals I shall make further comments on the draft resolution if I consider it necessary or useful.

50. Text of the Speech made by Mr. Vlteri Laforne (Ecuador) in the Security Council Meeting No. 468 held on 28 May, 1950

The S. C. is now carrying out one of the great functions in the development of the United Nations entrusted to it by the San Francisco Charter. That high function, that noble aim, is to contribute to the search for solutions to international disputes which may arise between Member States of the United Nations.

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By its very nature and essence an international dispute generally requires considerable time before any solution can be reached. It involves work which does not always proceed as rapidly as might be desired by the parties directly concerned and by others interested in the maintenance of peace and security. Yet by the very nature and essence of disputes, there are cases which appear simple at first, yet become more and more complicated as time goes on. Internationl disputes have been known to last for over a century.

The aim of international organizations such as ours is to bring about solutions within a reasonably short period of time. To the difficulty of finding a solution to such grave and complex problems is added the fact that the parties concerned are not always prepared to do their utmost to solve their disputes. I believe that in the present case fortunately, the two parties, sister States which have only recently joined the international community of nations firmly intend and earnestly desire to arrive at a speedy solution of their dispute.

Although this dispute originated in 1948 more than two years ago, it is now the end of February 1950 and no solution has yet been found. In the past two years however, as a result of direct action by the Security Council and by the special commissions set up by that organ to bring about a solution of the dispute between India and Pakistan, some very positive steps have been taken towards a solution. It would be most unfair, in speaking of the achievements of organs of the United Nations, among them the Security Council, to say that absolutely nothing has been reached. There are many problems which, without the existence and intervention of the United Nations or its organs, would have become much more serious ; in cases where it has not yet been possible to reach a solution, it is because the inherent gravity and complexity of the problem has made it impossible for a solution to be reached as speedly as might have been desired.

In the organization of the Security Council it was felt that there should be continuity of action which would enable the Council to solve international disputes despite the passing of time and the changes in the Council's membership. That

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is one of the reasons for there being both permanent and non-permanent members in the Council. The non-permanent members are not all changed simultaneously, and continuity is thus ensured even for problems which might last months or years. The Security Council can continue to examine problems in full knowledge of what has gone before, and new members elected by the General Assembly are able to take those problems up at the latest point of their development.

That is why, in dealing with the problem of India and Pakistan, we do not need to concern ourselves unduly with what has happened over the past two years. During that period there has been a development of the discussion and of the various stages in the endeavour to find a direct solution of the problem. Ecuador, for example, which has just joined the Security Council, must take things as it finds them ; it must take up the problem at the point it has now reached.

We have studied the problem ourselves and we have also listened carefully to the statements made by both parties. That valuable background material has made it possible for us to obtain a clear picture of the situation, but we cannot retrace our steps and we must face things as they are at present.

What have we at present ? We have now before us a very interesting draft resolution [*S/1461*] submitted by four members of the Security Council, the representatives of Cuba, Norway, the United Kingdom and the United States. That draft resolution is a natural consequence of the most recent developments, those which we should now consider. The United Nations Commission for India and Pakistan set up by the Security Council to study the question has made investigation on the spot, has visited the capitals of the two countries concerned, and has acted efficiently, patiently and intelligently. It has now submitted to us its third interim report [*S/1430, S/1430/Add. 1, S/1430/Add. 2 and S/1430/Add. 3*], containing practical information, conclusions and suggestions which warrant the serious attention of members of the Security Council. We have also carefully studied the important and realistic of General McNaughton [*S/1453*],

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President of the Security Council for the month of December 1949.

No attempt was made in that report to enter into the third historical aspects of the dispute. It is completely realistic and contains a number of recommendation, to the parties to the dispute, together with the Moments of both parties with respect to General McNaughton's proposal. We are not only informed of their comments, which were made directly to General McNaughton, but we have also heard and carefully studied the statements made by the representatives of India and of Pakistan.

The delegation of Ecuador has maintained close and continuous contact with the other delegations of the Security Council and has followed every step in the discussion which has led four members of the Council to submit the draft resolution which is now before us. That draft resolution, I believe, shows much understanding of the problem, shows a desire to make conciliation possible between the parties and to develop matters in such a way as to lead to a speedy solution of the dispute involving two Member States of the United Nations.

The draft resolution embraces all the points on which the two parties have already agreed ; it given, so to speak, a secondary place to the points on which no agreement could be reached and takes as its basis the fundamental points upon which both parties have agreed. With regard to those matters upon which there has been disagreement, it seeks to set up a procedure, to create a body representing the Security Council to the parties which possesses sufficient authority to enable it to mediate in an intelligent, flexible and efficient manner to bring about the solution which we all desire.

The draft resolution mentions the three basic stages on which the parties have agreed : the cessation of hostilities as from 1 January 1949, the establishment of a cease-fire line on 27 July 1949, and the appointment of Admiral Nimitz as Administrator of the plebiscite which is to decide definitely, by the free will of the inhabitants, whether the State of Jammu and Kashmir is to become part of India or of Pakistan.

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The fact that both parties have agreed to an impartial plebiscite through which the inhabitants may express freely their real wishes constitutes an valuable basis which it behooves us to use, so that the action of the mediator and of the two parties concerned may lead to a final solution of the dispute. The draft resolution gives a general outline of the terms of reference of the person who is to represent the Security Council in endeavouring to bring the parties together, so that the desired settlement might be achieved, a just and fair settlement which could be of a permanent character.

I shall not attempt at the present stage to analyse the proposal. I merely wish to state that in the view of the delegation of Ecuador the proposal is comprehensive and effective, offering the parties concerned a sensible basis upon which to settle their dispute.

In deciding to accept the draft resolution, we have taken into consideration a recommendation which we feel to be of the utmost importance in the Commission's report. When a commission which has worked with the determination, patience and energy of the United Nations Commission for India and Pakistan states that it is unable to do anything more in bringing about a solution, that it would be best to discontinue its function and that its responsibilities should be transferred to one person, that decision is obviously the result of experience, and we should treat that recommendation with the respect which it has received in the draft resolution.

The Security Council should appoint a person who would strive towards conciliation and mediation and who would take advantage of every opportunity and of all suggestions which might lead the two parties to a solution of their dispute. I believe that a person who would enjoy the confidence of both parties would do much to bring about the solution which we all desire.

I do not wish, I repeat, to enter into a detailed analysis of the proposal. It may prove necessary to make some slight changes for the purpose of clarification, but they would be of minor importance.

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The delegation of Ecuador supports the proposal submitted by the four States and feels certain that, with the firm desire and the good will of both parties to accept it and to implement it, it should be relatively easy to find a solution which would bring peace to millions of people and prove to the world that it is possible to arrive at solutions, provided in the Charter are used.

51. Text of the Speech made by the President Mr. C Blanco as the representative of Cuba in the Security Council Meeting No. 468 held on 28 February, 1950

Speaking as the representative of Cuba, I wish to make a few observations and to explain the reasons which have led my delegation to reach certain conclusions, after a detailed and impartial study of the India-Pakistan question, with respect to the State of Jammu and Kashmir. For the sake of brevity I shall not refer to the historical background of the problem. I shall deal surely with the measures adopted by the Security Council and the United Nations Commission for India and Pakistan as a basis for a peaceful solution of the problem.

Leaving aside the Security Council resolutions of 17 [*S/651*] and 20 [*S/654*] January and 21 April [*S/726*] 1948, let us consider the resolutions of 13 August 1948 [*S/1400 paragraph 75*] and 5 January 1948, [*S/1196 paragraph 15*] of the United Nations Commission for India and Pakistan, which form the basis of the agreements reached by the two parties concerned as a result of the good offices and the mediation of the Commission in seeking a settlement of the dispute.

The resolution of 13 August 1948 provided for three stages in the process of effecting a peaceful solution : the cease-fire in Kashmir, the truce leading to the demilitarization of that territory, and the future legal status of the State of Jammu and Kashmir, to be determined by the free will of the inhabitants. The resolution of 5 January 1949 supplements that of 13 August with regard to the last point, in that it

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describes the conditions required in preparing and organizing a plebiscite in that State. The Governments of both India and Pakistan agreed to the two resolutions and as a result of their acceptance the provisions of the resolutions apply equally to both. It was possible, by means of the Commission's negotiations with the parties, to bring about a cease-fire in the territory. Despite the Commission's efforts, however, it was not possible to implement the second part of the resolution of 13 August with respect to a truce and demilitarization, essential steps for guaranteeing the freedom and impartiality of the plebiscite.

That provision gave rise to the greatest difficulties. The parties concerned were unable to agree on the application of a plan of demilitarization. The result was that what might have been considered a mere question of detail, had there been agreement in principle, has become a fundamental question for which no solution has as yet been found.

In view of the situation, the Security Council decided in December 1949 [*457th meeting*] to request General McNaughton, who was its President at the time, to enter into informal conversations with the representatives of both parties for the purpose of determining whether a mutually satisfactory basis might be found for the solution of the difficulties which had arisen. It is a matter of the utmost regret to the delegation of Cuba that the proposals submitted by General Mc-Naughton setforth in document S/1453, have not been accepted by either of the two parties in so far as the demilitarization plan in concerned.

Fully aware of its duties and responsibilit es as a member of the Security Council, the delegation of Cuba considers that in its broad lines the proposals submitted by General McNaughton constitute an ample, reasonable and practical basis for the solution of the difficulties to which I have referred. It further believes that the proposal should commend themselves to the members of the Security Council and to world public opinion, in view of their equitable and just character. The delegation of Cuba wishes once again to express its admiration and gratitude to the author of those

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proposals, General McNaughton, for the valuable contribution he has made to the solution of the problem.

In the opinion of my delegation, the proposals have also a practical aspect which should be borne in mind, in that they take into account the substantive part of the agreement reached between the parties concerned, which is essential if any settlement is to be achieved. Other representatives have referred to it, and I do not intend to dwell on that point.

The delegation of Cuba wishes, therefore, to state that it adheres to the principles contained in paragraph 1 of the proposals submitted by General McNaughton and is pleased that the representatives of the two parties have, in their recent statements, confirmed their acceptance of those principles, which are :

"(a) To determine the future of Jammu and Kashmir by the democratic method of a free and impartial plebiscite, to take place as early as possible ;

"(b) Thus to settle this issue between the Governments of India and Pakistan in accordance with the freely expressed will of the inhabitants, as is desired by both Governments ;

"(c) To preserve the substantial measure of agreement on fundamental principles which has already been reached between the two Governments under the auspices of the United Nations ;

"(d) To avoid unprofitable discussion of disputed issues of the past, and to look forward into the future towards the good-neighbourly and constructive co-operation of the two great nations."

With respect to the problem of demilitarization, the Cuban delegation believes that the principles set forth in paragraph 2 of the proposals submitted by General Mc Naughton could serve as a basis for the establishment of a plan to bring about demilitarization as soon as possible.

Associating itself with those proposals, the Cuban delegation has offered its modest collaboration in the draft resolution now before the Council, which is based on the principles referred to. Generally speaking, our position in the

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matter is the same as that of the United Nations. It is our earnest desire that a solution should be reached in accordance with the provisions of the Charter. We do not espouse the cause of either of the two States which are parties to the dispute ; we have equal respect, consideration and sympathy for both. Our attitude could not be more objective or impartial. We support the cause of the United Nations, in other words the cause of peace and justice ; we also support the cause of the people of Kashmir, whose right freely to express their will with regard to their future is unassailable.

We must bear in mind, however, that so long as this dispute remains unsolved and the present situation between India and Pakistan continues, international peace to endangered, the progress of both peoples is retarded, and their fate is perhaps in danger. We wonder, therefore, whether the reasons, valid as they may be, which order of the two States may have, or the rights which they may claim to any specific disputed territory, should although the advantage, or rather the necessity, for both States to establish good neighbourly relations, to enlarge heir commercial relations, and above all to walk hand in hand, thus contributing to the progress and improvement of their respective peoples and of those other peoples in that area who have but recently achieved their freedom and independence.

We do not doubt, therefore, that both India and Pakistan will reconsider the problems in the light of whatever new action the Security Council may take, and that they will succeed in closing a past of struggle and anxiety, and settling a present fraught with danger, so as to open the way to a future of peace and prosperity for their peoples.

The delegation of Cuba considers that the draft resolution submitted jointly by Norway, the United Kingdom the United States and Cuba offers to both parties new opportunities to achieve a just, equitable and final solution of their difficulties and gives ground for hope that a free and impartial plebiscite may soon be held in the State of Jammu and Kashmir, through which its people may determine their future by democratic methods.

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52. Text of the Speech made by Sir Terence Shone (United Kingdom) in the Security Council Meeting No. 468 held on 28 February, 1950

I imagine that some of us may perhaps have hoped that the four days which have elapsed since the joint draft resolution now before the Council was presented might have sufficed to enable the representatives of the two parties mainly concerned to give the Council the views of their Governments today. On the other hand, I am sure we can all appreciate that a further brief period of delay may be required in a matter of such importance. At the same time I feel bound to recall to the Council the emphasis which many of its members, including the representative of the United Kingdom, who then occupied this chair, have placed on the importance of avoiding any undue delay in this matter. Some of us cannot but feel concerned at reports which we read in the Press almost every day regarding various questions at issue between India and Pakistan, apart from the question of Kashmir.

The Security Council has, as we all know, a grave responsibility in this question of Kashmir, and we are surely entitled to hope that anything we may be able to do to conduce to a rapid settlement of it will help in other ways as well. I trust, therefore, that I shall not be regarded as pressing matters unduly if I express the hope that within a few more days we shall be fully apprised of the views of both parties on the joint draft resolution, and that we may then be enabled to take things a stage further in the Council.

53. Text of the Speech made by Sir Terence Shone (United Kingdom) in the Security Council Meeting No. 469 held on 8 March 1950

I have been deputed by my three follow-sponsors of the joint draft resolution now before the Council to make a short

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statement on behalf of all four of us with a view to clarifying certain points on which we have been given to understand there may be some doubt.

We have been asked to explain in greater detail the intentions which we had in mind in including in paragraph 1 of the operative part of our joint resolution the words "on the basis of the principles of paragraph 2 of General McNaughton's proposal".

The sponsors believe that the general approach adopted by General McNaughton was right and they consider that, in the existing situation and in the light of the information which has been made available to them, the suggestions contained in paragraph 2 of General McNaughton's proposals [*S/1453*] are not only entirely fair and reasonable, but also best calculated to facilitate the early settlement of the dispute. It would seem to be unsuitable for the Council to do more than to recommend these suggestions in general terms to the parties and to the United Nations representative. In working out a programme of demilitarization, it would be expected that due account would be taken of the opinion of the Council and that the programme would follow broadly the lines indicated by General McNaughton. The United Nations representative would, no doubt, be guided also by the statements made at Lake Success by members of the Security Council. Subject to this, the United Nations representative would, of course, have a certain amount of discretion to adjust this course in the light of any fresh considerations which might arise.

The sponsors of the joint draft resolution believe that it provides a practical procedure for moving forward toward the final settlement of the Kashmir dispute by building on the essentials of agreement already reached between India and Pakistan. In putting forward the draft resolution they did not intend that the Council itself should engage in a mediatory effort or negotiation with the parties on the details of the application of the underlying principles. In the view of the sponsors that is a task which can best be performed by the United Nations representative in direct negotiation with the parties.

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The sponsors believe that a reasonable programme of demilitarization can best proceed on the basis of the principles set forth in paragraph 2 of General McNaughton's proposal. One of these principles is that the armed forces on either side of the cease-fire line should be reduced by withdrawal, disbandment and disarmament in such stages as not to cause fear at any point of time to the people on either side of the cease-fire line. A second is that the armed forces should be reduced in this manner to the minimum compatible with the maintenance of security and of local law and order. They should be reduced to a level sufficiently low, and should be so placed, as not to inhibit the free expression of public opinion in a plebiscite. It follows that the programme of demilitarization should be dealt with as a whole and accomplished within a single period, leaving only the minimum of forces for final disposal under the resolution of 5 January 1949 [*S/1196 paragraph 15*] of the United Nations Commission on India and Pakistan; that it should embrace all the areas of the State, including the northern area, and that it should be so designed as to reduce to the minimum the possibility of any recrudescence of fighting or disturbances.

As to the question of the temporary administration of the northern area, the co-sponsors believe it to be a corollary of the maintenance of the cease-fire line that the military and civilian authorities on their respective sides of the cease-fire line must be able to co-operate with each other. The sponsors have therefore assumed, as General McNaughton appeared to assume in paragraph 2 of his proposals, that there could be no question of making any change in the civil administration in the northern area. The sponsors are fortified in this view by the apparent belief of the Commission that any such change would involve the risk of an extension of military activity. If the United Nations representative should find the assumption I have mentioned unwarranted, this draft resolution would not preclude him from suggesting other appropriate and equitable arrangements.

It has been asked whether the provision in sub-paragraph 2 (*a*) of the joint draft resolution that the United Nations

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representative should interpret demilitarization agreements, is intended to refer only to future agreements. We confirm that this is the intention.

In regard to sub-paragraph 2 (*b*) of the joint draft resolution, we have been asked to define more exactly the extent of the United Nations representative's authority to may suggestions under this sub-paragraph. It will be observed that the wording of the sub-paragraph gives the representative a very wide discretion or regard to the kind of suggestions he is empowered to make to the Governments of India and Pakistan or to the Security Council. It should be borne in mind, however, that the sub-paragraph must be read in its context. Through this joint draft resolution the Security Council would, among other matters, commend the parties for reaching agreement on the goal of a free and impartial plebiscite and express its opinion that the resolution of the outstanding difficulties should be based on the agreement on fundamental principles already reached.

When sub-paragraph 2 (*b*) is read in this context, it should be clear enough that the Council would expect any suggestions which the representative might make to be compatible with the agreed objective. Only if he should find, after investigation on the spot, that the agreed objective was impracticable, would he be expected to make suggestions at variance with this objective. The mandate is made as extensive as it is in order to ensure that the representative will be duly empowered to make appropriate suggestions in all contingencies, even such as would today be considered highly improbable.

It has also been asked whether the power of the Plebiscite Administrator in regard to the final disposal of armed forces after the demilitarization period would be affected by the present joint draft resolution. The sponsors wish to say that, under sub-paragraph 2 (*d*), it is anticipated that the Plebiscite Administrator would assume the functions assigned to him "under agreements made between the parties". Therefore, the powers which it was agreed, under the Commission's resolution of 5 January 1949, that the Plebiscite Administrator

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should assume, would not be prejudiced by the present joint draft resolution.

We have also been invited to clarify our intentions in regard to paragraph 5 of the joint draft resolution. It is our intention that the United Nations representative should be in a position to exercise his powers immediately upon his appointment by the Security Council, and that the Commission should remain in existence for a short period in order to ensure continuity. During this period the United Nations representative and the Commission would be equipped with identical powers, but it is not anticipated that circumstances would arise in within the Commission would need to exercise its powers.

54. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 471 held on 12 April, 1950

The United States wishes to encourage its fellow Members of the United Nations, India and Pakistan to continue to make these substantial gains in the direction of the settlement of an extremely complicated situation. It has never been necessary for the Security Council to consider the question of blame, guilt, or anything of that kind. It has had enough to do in considering the facts, the complexity of which was the natural outgrowth of a situation having many ramification and a long and ancient history.

I think that, as representative of the United States, I could do no better at this moment of progress than briefly to refer to what these great Members of the United Nations have already accomplished and to the promise which this holds for the future. I should like to bring out the high points in the comparatively briel consideration which the Security Council has given to this matter. I should also like to touch upon the matters which remain to be considered and acted upon by the two representatives of the Security Council : first, by the person whom we have appointed today and whose distinguished character gives us every cause for

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expressing gratitude at his willingness to assume the burdens of this great task ; and, then after he has carried cut that task and reported to the Security Council, by Admiral Nimitz, who will have to go forward with his part in the programme as supervisor of the plebiscite in which fair opportunity is to be given to the people of Kashmir and Jammu to make their own decison as to accession.

This, briefly, is the story as we see it, and we think it represents a notable achievement by two great countries which were suddenly confronted with the necessity of solving these problems that grew out of the great change from a colonial status to one of independence.

It was in January 1948 that this matter was brought before the Security Council. On the 17th of that month, the Security Council adopted a resolution [*S/651*] submitted by the representative of Belgium which called upon the parties "to take....all measures....to improve the situation...." The United Kingdom delegation suggested that the President of the Security Council meet with the representatives of the parties to explore the grounds for settlement ; and, still in that same month, on 20 January 1948, a three-member Commission was created by the Security Council [*S/654*] to proceed to the spot, investigate and report.

On 13 August 1948, by virtue of a resolution [*S/1100, paragraph 75*] adopted by the United Nations Commission for India and Pakistan [*UNCIP*] the Security Council Commission to which I have just referred, a cease-fire was ordered and a truce agreement proposed, reaffirming the wish of both parties that the future status of the State be determined in accordance with the will of the people.

On 23 December 1948—I am skipping many of the details of this history, because it is necessary on this occasion to bring only the high points into the record—India accepted, by letter [*S/1196 annex 4*], the proposals made by UNCIP ; and, on 25 December, Pakistan did likewise [*S/1196 annex 5*]. India and Pakistan agreed, then, to order a cease-fire, which became effective, at midnight, one minute before 1 January 1949.

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On 5 January 1949, UNCIP adopted another resolution [*S/1196, paragraph 15*] supplementing part III of the resolution of 13 August 1948, providing for a plebiscite to be carried out by a plebiscite administrator to be nominated by the Secretary-General and to be formally appointed to office by the Government of Jammu and Kashmir.

Very shortly thereafter, on 24 March, to be exact, Chester W. Nimitz, Fleet Admiral of the United States Navy, was designated Plebiscite Administrator, and the Commission of the Security Council was notified by the Secretary-General of this designation.

These were important and logical steps toward a pacific solution of a situation which had become so dangerous that both parties told the Security Council that its continuance threatened to bring about an international conflagration.

On 15 April, UNCIP presented to both parties truce terms which is deemed to represent a fair compromise. Those terms included, first, the drawing of a cease-fire line, secondly, the withdrawal of troops, and, thirdly, general provisions.

On 26 August, the parties not having been able to agree to all the particulars of UNCIP's proposals, another idea was tried out : a proposal [*S/1430/Add.1, annex* 35] providing for arbitration on the differences existing between the parties concerning all questions raised by them regarding the implementation of part II of the resolation of 13 August 1948.

I have referred to two resolutions : one 13 August 1948 and the other of 5 January 1949. They are basic resolutions, and I have called attention to them because they are concerned with what we are doing today and constitute the basis of our action, as I shall point out.

The proposal for arbitration was rejected. The net gain up to this point, then, before the resolution which was adopted on 14 March 1950 and to which the representative of Ecuador has referred, was the cessation hostilities, the adoption of a line of truce, an agreement for a plebiscite, and recognition by both India and Pakistan that Admiral Nimitz was satisfactory as a supervisor and overseer of the plebiscite. That is where we stood on 14 March 1950, when

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the Security Council adopted the joint resolution introduced by Cuba, Norway, the United Kingdom and the United States, which replaced UNCIP by a single representative and called upon the parties "to prepare and execute within a period of five months from the date of this resolution"—that would bring it to next August—"a programme of demilitarization on the basis of the drinciples of paragraph 2 of General McNaughton's proposal [*S/1453*] or of such modifications of those principles as may be mutually agreed."

I shall not take the time of the Security Council to review the McNaughton proposal, but I refer to it in order to have this record connected up logically.

There is one paragraph in the resolution of 14 March 1950 that I ask leave to read ; it is not long and I regard it as important enough to be made a part of any remarks. It reads :

> "Commending the Governments of India and Pakistan for their statesman like action in reaching the agreements embodied in the United Nations Commission's resolutions of 13 August 1948 and 5 January 1949 for a cease-fire, for the demilitarization of the State of Jammu and Kashmir and for the determination of its final disposition in accordance with the will of the people through the democratic method of a free and impartial plebiscite and commending the parties in particular for their action in partially implementing these resolutions by"—and this is the record of achievement :
>
> "1. The cessation of hostilities effected 1 January 1949,
>
> "2. The establishment of a cease-fire line on 27 July 1949 and
>
> "3. The agreement that Fleet Admiral Chester W. Nimitz shall be Plebiscite Administrator."

What is there left immediately before us ? We find that the greatest difficulty, and one which provoked the idea of

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arbitration, was the demilitarization of the country, which is deemed to be necessary, and which is considered by the Security Council to be necessary, in order that the plebiscite may be held in an orderly way and uninfluenced by the presence of the armed forces of either party to this controversy. Consequently, the immediate question still to be decided, and the question with regard to which this very distinguished representative will participate, assist, afford guidance and report to the Security Council from time to time is that of demilitarization.

I should like to say, in conclusion, that the United States wishes to strengthen the arm of the representative of the Security Council as far as it is proper and appropriate for a member of the Security Council and a Member of the United Nations to do so. It is our judgment that this great representative should have the strong support of the Security Council at all times in his very difficult task. In saying this we cast no aspersions whatsoever upon the parties. Their problem is exceedingly difficult, as we know. We are not trying to enforce something by punishment, coercion or anything of that kind. What we are trying to do is to use that finest of instrumentalities in all disputes, pacific settlement, and the offer of a very distinguished and able person to aid in bringing the parties together.

55. Text of the Speech made by Mr. Tsiang (China) in the Security Council Meeting No. 471 held on 12 April, 1950

I appreciate and praise the noble motives which actuated the President to make the statement which he did at the beginning of today's meeting. It is obvious that the peoples of the world look to the United Nations and, in particular, to the Security Council, to keep the peace of the world. It is also obvious that problems have increased faster than we have been able to find solutions for them. The President's concern is therefore very legitimate. I wish to take a few minutes of

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the Council's time to set forth the views of my delegation in regard to the problem which the President took up in his opening statement.

In the first part of the President's statement he stressed the problem of disarmament and the organization of a United Nations force. Although he did not specifically mention the problem of atomic energy. I am sure he had it in his mind, as indeed all of us must have it always in our minds. My delegation regrets and laments that we have not succeeded in prohibiting and controlling the atomic weapon. We regret that the matter of the limitation of conventional armaments has not made much progress. We also regret that the organization of an international force is as far off today as it was when the United Nations was first started. This state of affairs is undoubtedly a disappointment to all of us here and to all the peoples of the world. Indeed, we can say that such a state of affairs has come about against the deep wishes of all the peoples of the world. Nevertheless, it is a fact, and we can ponder over the reasons for the present situation.

The world, in spite of its shortcomings, has progressed beyond the stage of cannibalism or war for the sake of just killing people. War for sake of war is definitely a museum piece. If, then, we still see on all sides preparations for war it is because we are divided on policy. It is my sincere conviction that the cause of disarmament can be served only by seeking a settlement in the political sphere. Any effort to work on the problem of disarmament, including the control and prohibition of atomic energy, would not bear fruit unless we succeed in the first instance in achieving a substantial measure of political agreement.

Turning now to the political field, it appears to me that it is well for the Security Council to keep in mind its limitations. To realize our limitations is not to abdicate or to remain passive in the face of the world crisis. If we realized our limitations we could then more profitably build up our strength and apply that strength along lines that would be really useful.

One of the great political problems facing the world

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today is the problem of peace treaties with Germany, Japan and Austria. Now, it was decided by the Powers that the question of peace treaties should be placed beyond the sphere of activities of the United Nations. No matter what we here might think today, this problem is not within our jurisdiction. I can see nothing that the Security Council can do usefully in this field.

The second great limitation which we must face is the rise of Soviet Union imperialism. This rise is unexpected. In the years before the organization of the United Nations and during the Conference at San Franciso, all the Governments and peoples of the world expected the Soviet Union to co-operate with the other countries of the world on the basis of live and let live. Actual events have gone against our expectations. We face today a new kind of imperialism more deadly than anything we have ever seen before in all of mankind's history. It works with weapons against which the Charter made no specific provision just because the framers of the Charter did not visualize such a possibility. It is only when aggression assumes the classical form of armed invasion that the specific Articles of the Charter can be brought into action. Aggression through propaganda, through the "fifth column", through exploitation of economic backwardness in some countries, waging a war of aggression in the form of a civil war—all these and other devices were not foreseen and safeguarded against by the framers of the Charter. This limitation of the United Nations is one of the fundamental causes of its weakness today. It is also the fundamental cause of the world's worries.

What, then, can the United Nations contribute towards the maintenance of peace ? It has no force of its own. It has no financial resources of its own. Some of the important problems of the world are not within its scope of activities. Our Charter was designed more to meet the problems of the past than to meet the one problem of today.

In the face of all these limitations and difficulties there is one sphere where we can be useful and strong. That is the

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sphere of world public opinion. It is by the mobilization of the moral forces of the world that the United Nations today can make a real contribution. I am firmly convinced that if we should be courageous enough to deploy all the moral forces of the world, we could yet maintain the peace of the world.

During the fourth session of the General Assembly, my delegation asked the United Nations to consider the aggression of the Soviet Union against my country. The General Assembly contented itself with a resolution of abstract and remote principle. Even today, when the question is before the Interim Committee, some delegations are only too prone to be passive, to say that what is past is past. I cannot conceive of any way of raising the prestige of the United Nations if we continue to hush matters. Proposals have been made to patch up things. Such proposals are calculated to preserve the United Nations as a piece of bureaucratic machinery. I am not interested in the United Nations as a piece of bureaucratic machinery; I am interested in the United Nations as a force for international justice and peace. As soon as it ceases to be such a force, a mere gigantic bureaucracy will serve no purpose whatever.

56. Text of the Speech made by Mr. Bebler (Yugoslavia) in the Security Council Meeting No. 471 held on 12 April, 1950

At the beginning of this meeting the President, referring to the present world tension, addressed a general appeal to the permanent and non-permanent members of the Security Council. My delegatton feels that, in so doing, he was perfectly justified in emphasising that in the eyes of public opinion we—and I am speaking of the Council as a whole—are very far from playing the part which we are called upon to play in international life : that of a great artisan of peace and of international understanding.

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Our agenda contains a long list of questions. We do not mention them. I of course share the opinion of those who hold that failure to discuss these questions is perhaps a good omen, since it can be taken to mean that they are not "burning" questions. However, as the President pointed out, there are problems to which that optimistic view obviously cannot apply. Some of them are not taken up despite the fact that they are immediate and pressing.

The President was right in mentioning the question of the admission of new Members. Some States applied for admission to membership in the United Nations in 1946 and 1947. They have been waiting for the past three or four years. It is to be deplored that these States have not been admitted as a result of the lack of agreement on the question as to how many of them should be included in the first group of new Members to be admitted. The prestige and success of the United Nations call for an immediate solution to that problem.

Moreover, I feel that I must refer to the problems of armaments. These are particularly grave problems since the armaments race adds to international tension which in turn speeds up that race. Who, other than the Security Council, can rescue the world from this vicious circle ?

The Security Council must, of course, be in a moral position to do so. It is therefore essential that the Council itself should be able to function. Its composition should be such as to permit it to take, with authority, whatever initiative may be required.

Unfortunately, we cannot say that all is well within the Security Council. We are divided on a vital question, that of the representation of a permanent member, China. As I told the Press the other day, I consider that the time has definitey come for that question to be solved. There is, in our opinion only one possible solution, that of admitting to our table the representative of the Government of the People's Republic of China, the only Chinese Government worthy of that name. Our failure to take that

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decision has resulted in the absence from the Council, through no fault of its own, of one of its permanent members, a situation for which the majority of its members is to blame.

Moreover, is there still that majority of seven votes which the Charter requires for accepting the validity of the credentials of the Chinese delegate who is here at this time? I doubt that very much and I believe that the President should examine the situation and lead us to a speedy solution of that question which has remained in suspense for too long a period of time.

To avoid any misunderstanding, I wish to point out that such a decision should be taken immediately, not because of the intentional absence of another permanent member, but despite that absence. It should be taken in the interests of the United Nations; it should be taken because the Charter requires the presence of China in the Security Council; that is clearly stipulated in Article 23. It should be taken because China's absence constitutes the most flagrant violation of the principle of universality of the United Nations, since it concerns a country the population of which is larger than that of the whole of Europe or even of the two American continents combined.

In our opinion, we should deal with this question first and should devote one of our forthcoming meetings to it. This is the first task awaiting not only the permanent members of the Council but also and especially the non-permanent members, since the latter seem less divided on this point—which, incidentally, is no more than a reflection of the general state of affairs in our troubled world.

This last factor is an additional reason for our attitude with regard to the part to be played by large and small countries. This attitude was clearly stated by my country's Minister for Foreign Affairs, Mr. Kardely, during a general debate at the last session of the General Assembly, when he said:

"We are far from under-estimating the part which

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the great Powers are at present playing in international life and, particularly, in the defence of peace. We believe, however, that the co-operation on an equal basis of the small Powers in all efforts towards strengthening the peace is essential if the peace is to be not merely a peace for the great Powers but also one between the greats Power and the small, i.e., a peace between equal nations, a peace for all and not only a peace for the strong and the Mighty."

For that real, just and indivisible, peace, we are prepared to do everything which is necessary. As a member of the Council, my country is prepared to co-operate in any plan and to give its support to any step directed towards that end, any step aimed at raising the prestige of the United Nations, by showing that thhe United Nations as an organization, is equal to its task and that its work, its enterprises and its successes are an expression of that which is deepest and most common to all peoples : the desire for a lasting peace.

57. Text of the Speech made by Sir Gladwyn Jebb (United Kingdom) in the Security Council Meeting No. 532 held on 21 February, 1951

The India-Pakistan question has now been before the Council for more than three years, and I am sure that I shall be expressing the feelings of the two governments and of members of the Council when I say how deeply we all regret that it has not yet been possible to settle it. His Majesty's Government in the United Kingdom has from the outest attached the greatest importance to a solution of the differences between two fellow members of the Commonwealth, not only because of the special ties which the United Kingdom has with each of the them, but also because of the supreme

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importance of securing the peaceful evolution of those Asian nations whose emergence to full statehood was one of the principal and, indeed, one of the most encouraging results of the Second World War. Further, developments in Asia during the ten months since this question was last debated by the Council have clearly demonstrated the urgent need for removing the obstacle to co-operation and mutual assistance between the Government of India and Pakistan. Never was it more necessary, indeed, than it now is for two great peace-loving States to give practical evidence that the issues which divide them, great and troubling though they are, are still capable of adjustment in accordance with the purposes and principles of the Organization to which both belong. Never was it more important, too, for all members of the Security Council, and, indeed, for all Members of the United Nations, to give every possible help and assistance to both sides in reaching such an adjustment. We know only too well how intractable this kind of question is: none of us, I am sure, wishes to assume any superior moral position in regard to it. We are all of us fallible and mortal. None of us wishes, unless absolutely forced to do so, to take sides. But as members of the Council, we cannot simply sit back and admit failure. However bleak the outlook, we must go on trying to secure a settlement, and try we will.

The aspect of the dispute between India and Pakistan with which we are at present particularly concerned is, of course, that which relates to the final disposition of the State of Jammu and Kashmir. It will be recalled that, on 14 March 1950, the Council adopted a resolution [*S/1469*] which called on the two governments to prepare a programme for the demilitarization of the State based on proposals formulated by General McNaughton as President of the Council some months previously [*S/1453*]. The resolution also appointed a United Nations representative for India and Pakistan to assist them in this task and to place before them any suggestions which, in his opinion, were likely to contribute to a solution of the dispute. Members will have read with great interest the report subsequently submitted by Sir Owen Dixo

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who, in his capacity as United Nations representative, spent a number of months in the sub-continent in negotiation with the two governments and in examination of the problem in the State itself.

I think I shall be speaking for the Council as a whole in expressing my warm admiration for the great ability and energy with which Sir Owen discharged his mission, and for the lucid and comprehensive report which he has submitted to us. Sir Owen has made the fullest use of the terms of reference which the Council gave him and has, by formulating and discussing with the parties a whole range of proposals for settling the dispute, thrown a great deal of new light on the problem, and provided the Council with much valuable material for its consideration of what the next step towards a solution should be. The document is indeed a most masterly analysis, and I should like to draw the Council's attention to the remarks which I made as President at our 503rd meeting and to repeat my government's appreciation for Sir Owen's most valuable services and its regret that his duties as a Judge of the High Court of Australia should make it necessary for him to relinquish his appointment as United Nations Representative. I am sure that members of the Council will wish associate themselves with this.

On only one major recommendation did my government differ from Sir Owen Dixon. Sir Owen in fact concluded that in all the circumstances it would be best henceforward to leave the problem of the disposal of Jammu and Kashmir to the parties themselves to settle, the Security Council holding itself aloof, unless indeed hostilities should unfortunately recur. Sir Owen Dixon is a wise man and there will undoubtedly be some who would accept this advice. Certainly, if adopted, it would place my country in a less immediately embarrassing and invidious position. But after full reflection His Majesty's Government could not agree that it should now, as it were, wash its hands of the problem. The reasons for this conclusion I shall now shortly state.

The history of the negotiations for a settlement of the Kashmir dispute is a long one, and I do not intend to take up

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time in recapitulating it. The three reports of the United Nations Commission for India and Pakistan and Sir Owen Dixon's report, which I have just mentioned, contain a full and clear exposition of it. It is important, however, that we should keep constantly in mind certain fundamental considerations. Complex as are the detailed issues raised during the course of the negotiations with the two governments, these fundamental considerations are really quite simple. The first of course is that both governments are agreed that the future disposition of the State, which is the question of accession—and here I quote from the letter dated 27 October 1947 from the Governor-General of India to the Maharaja of Kashmir—"should be decided in accordance with the wishes of the people of the State". In his opening statement to the Council on 15 January 1948, Mr. Gopalaswami Ayyangar, a Minister of the Government of India and its representative, in presenting its original complaint to the Council, elaborated the statement of the Governor-General's letter in the following terms [*227th meeting*] :

"I would invite the attention of the members of the Security Council to the high-principled statement characteristic of the Government of India under its present leadership. In accepting the accession they refused to take advantage of the immediate peril in which the State found itself and informed the Ruler that the accession should finally be settled by a plebiscite as soon as peace had been restored. They have subsequently made it quite clear that they are agreeable to the plebiscite being conducted if necessary under international auspices.....It was clear to my government—as indeed it was clear to everybody else—that peace in Kashmir could never be restored or maintained without the support of the people.....On the question of accession, the Government of India has always enunciated the policy that in the cases of dispute the people of the State concerned should make the decision."

He went on to say :

"We desire only to see peace restored in Kashmir and to ensure that the people of Kashmir are left free to decide in

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an orderly and peaceful manner the future of their State."

This fundamental principle, then, has been accepted by both governments and endorsed by the Security Council from the earliest stages of the dispute. The difficulties which we have encountered have all concerned the translation of that principle into a detailed scheme to give effect to it. However, even on matters of detail there has been a substantial measure of agreement between the two parties. The United Nations Commission for India and Pakistan, which was constituted by the Council in January 1948 [*S/654*], prepared two resolutions which the two governments both accepted. These resolutions dated 13 August 1948 [*S/1100*] and 5 January 1949 [*S/1196*], have since been regarded by the Council as providing the basis on which the settlement of the dispute should be sought and it is, therefore, worthwhile to consider for a moment what their main provisions are.

The Commission, when it arrived in the sub-continent in July 1948, was faced with new and serious developments in the situation by the entry of Pakistan military forces into the western part of Kashmir and the existence of hostilities between the Indian and Pakistan armies. Its first concern, therefore, was to bring about a cease-fire and to provide for the orderly withdraw of military forces on both sides of the cease-fire line to enable preparations for a United Nations plebiscite to begin. The resolution of 13 August 1948 concentrates on these two objectives. As a result of the Commission's skill and perseverance and of the wise statesmanship shown by the leaders of the two governments, a cease-fire was proclaimed to have effect from 1 January 1949, and agreement was shortly afterwards reached for the appointment of a United Nations observer force to democrate the cease-fire line and prevent incidents between the forces on both sides. That serious incidents have been avoided is a tribute to the two governments and their military commanders, and also to the United Nations observers who are still performing their duties with admirable judgment and efficiency. I should like at this point to pay tribute to Brigadier Angle, Canadian head of the observer forces in Kashmir, who was killed in an airplane

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accident in the sub-continent on 17 July last year, and to his two United States colleagues who died with him. All who came into contact with his work in this capacity had the highest regard for him.

Unfortunately the Commission for India and Pakistan was not able to follow up its success in obtaining a cease-fire with a solution of the next problem, namely, that of demilitarization. It did, however, produce its second resolution, that of 5 January 1949, which provided for the appointment of a United Nations Plebiscite Administrator and defined in some detail the form which United Nations supervision over the plebiscite should take. The acceptance by the parties of these resolutions therefore has provided a wide area of agreement, and in spite of the difficulty which General McNaughton and Sir Owen Dixon subsequently met in settling the matters of detail that have so far prevented these two resolutions from being put into full effect, my government is not without hope that a further determined effort by the Council, with the assistance of the two governments, will discover a way of resolving them and of effecting a settlement of the whole Kashmir problem.

I do not feel, indeed, that I can emphasize too much the fact that both governments are agreed on the essential elements of a settlement and that all that is now required is goodwill on both sides to resolve outstanding points of detail. Given the far-reaching benefits which a settlement would bring and the all too obvious dangers of the continuance of the dispute, not only to the two countries themselves, but to all those other countries elsewhere in the world which value human liberty and the democratic way of life, I trust I am not being too sanguine in expressing the hope that a final settlement of the dispute can now quickly be achieved.

This at any rate is the spirit in which my government has approached this problem. Since Sir Owen Dixon's report was received by the Council, my government has devoted much thought and effort in consultation with the two parties towards overcoming the deadlock and opening the way to its solution. During the recent meeting of Commonwealth Prime Ministers

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in London there were, as the Council knows, a number of informal and private discussions between various of the Prime Ministers about Kashmir, and certain new proposals for facilitating a settlement were brought forward and examined. In addition my government has been in constant touch with the United States Government, which has, as the Council knows, played a leading part in seeking a settlement of the question since it was first referred to the Council three years ago.

As a result of their careful examination of Sir Owen Dixon's report and of the discussions which they have held with the parties and with other governments, my government and the Government of the United States have prepared a draft resolution for the consideration of the Council. This has been circulated as document S/2017. I wish to emphasize from the outset that the submission of this draft resolution is not intended in any way to prejudge the Council's deliberations or the views which the Indian and Pakistan representatives will no doubt put forward. It seemed to my government, however, that it might be helpful for the Council to have a draft before it as a basis for discussion, and that the most convenient way in which the United Kingdom and the United States Governments could put before the Council the results of their deliberations on this problem would be in the form of such a draft resolution.

I now turn to the actual terms of this draft resolution. I should perhaps first emphasize that although it takes into full account many discussions which my delegation has had with both parties, it has not in any sense been prepared in consultation with them, still less agreed with them. Indeed I fear that it will be found to contain certain provisions with which one side or the other may not find itself entirely in sympathy. I would only urge them to give the most careful consideration to it and to accept it as constitution what we believe to be the only approach likely to resolve the differences which have been preventing the holding of the plebiscite that we are all so anxious to secure.

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Before I draw my colleagues attention to the detailed provisions of the resolution, I must first refer to the letter of 14 December 1950 to the President of the Security Council from the Pakistan Foreign Minister, Sir Mohammad Zafrulla Khan [*S/1942*]. Members will no doubt themselves have seen reports of what is called the "All Jammu and Kashmir National Conference" resolution to which this letter refers, and will have wondered how far it could be reconciled with the agreement already enshrined in the two Kashmir Commission resolutions which, as I have already mentioned, provide of course for settlement of the future accession of the State by a fair and impartial plebiscite conducted under the auspices of the United Nations. I feel bound to say on behalf of my delegation that for our part we find it difficult to reconcile the Kashmir National Conference resolution with this agreed form of settlement and my government has felt some anxiety lest the Kashmir State authorities should embark on some kind of independent action which would be a challenge as we felt to the authority of the Security Council and of the United Nations. However, I feel sure that when we hear, as we shortly shall, the explanation which my colleague, the representative from India, will no doubt give us, we shall be reassured that there is no intention on the part either of his government or of the Kashmir State Government to adopt measures which would in any way prejudice the agreements already reached and the commitments already entered into by the Governments of India and Pakistan, or which would conflict with the measures already adopted by the Security Council.

Therefore, I shall not dwell on the third and fifth paragraphs of the preamble of the draft resolution submitted by my United States colleague and myself. These paragraphs, read with the statement which I hope Sir Benegal Rau will eventually make, will, I am sure, be a reassurance to the Pakistan Foreign Minister and will place on record quite categorically that no reference to the people of Kashmir regarding the future accession of the State made otherwise than under the auspices and with the full consent of the United

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Nations can be regarded as constituting a settlement acceptable to this Council.

The final paragraph of the preamble points to the two immediate and major differences requiring solution, namely, as we all know, demilitarization of the State and the degree of United Nations supervision over the conduct of the plebiscite. Study of Sir Owen Dixon's report will show in detail the reasons why he was unable to resolve the differences between the parties on these two points. Our draft resolution does not itself seek to define a solution of them.

In paragraph 4, however, it sets out four elements which we hope may contribute towards a solution. We sincerely believe that the possibility that a neutral force might be made available to safeguard the security of the State during the plebiscite period should, if there is a minimum of goodwill of both sides, overcome many of the difficulties which have so far stood in the way of demilitarization. I hope that the representatives of the two parties will be able to give the Council assurances that such a neutral force would not be rejected by their governments if the United Nations representative should decide that it offers the only solution to the problem of demilitarization. Whatever difficulties may have been felt by either of the parties in the past, I hope that there will now be a ready acceptance of the principle that the best guarantee of a fair expression of the wishes of the people of Kashmir is the removal or disbandment of the military forces of all interested parties and their replacement by United Nations forces which can have no interest to sway the vote either way. As a principle this seems to us at least to be so axiomatic that we can hardly believe that it will not be accepted by the Council and by those immediately concerned. For if it is not accepted, it can only mean that the contestant denies the whole conception of settlement by plebiscite, which after all has already been accepted without reservation. Can anyone in fact maintain that the two classic examples of successful plebiscites in recent years—the Saar and Upper Silesia—could have been successfully conducted without the presence of a neutral force, neutral, that is

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to say, as between the two contending parties ? I suggest that it cannot.

As I have said the resolution does not itself set out a detailed solution, but instructs the United Nations representative in consultation with the parties to effect the demilitarization of the State and to persent detailed plans for carrying out the plebiscite. The Council will, I hope, agree that the United Nations representative should be given some assurance that on outstanding points of difficulty a means of obtaining an authoritative decision will be available to him. It is for this reason that provision has been made in paragraph 7 for reference of any such points to an arbitrator or panel of arbitrators appointed by the International Court of Justice.

The Council will, of course, be aware of a previous occasion when the Government of India was unable to accept the Kashmir Commission's proposal for arbitration on such points. My government has, of course, given anxious thought to the considerations which prompted the Government of India to reject this previous proposal. But the hope is that, in view of the repeated failure to resolve these differences on points of detail and of the fact that the general principle of settlement by plebiscite has already been fully accepted by both governments, they will now feel able to accept arbitration on any points of difference which the United Nations representative, after further consultation with them, is unable to resolve.

I do not wish to weary the Council with too much detail at this stage. My colleagues will no doubt wish for time to examine the draft resolution I—and I am sure my United States colleague also—will be very ready to elucidate any points in our proposals which may be put forward in later meetings of the Council. I should, however, draw the Council's attention to the provisions of sub-paragraph (iii) of paragraph 4 of the draft resolution since this deals with a principle which has not hitherto been incorporated in any formal resolution. It is one, however, which members of the Council have, I am sure, long had in mind.

Whichever party the majority vote in the plebiscite may

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favour, there seem certain to be some areas with an overwhelming proportion of inhabitants in favour of the party with minority of votes throughout the State. Where, after careful consideration of geographical and economic factors, it seems that any of those areas should be separated from the State as a whole and included in the territory of whichever of the two parties loses the plebiscite, the intention of this sub-paragraph is that such adjustment should be made. There are several points which need emphasis. The first is that no adjustment should be made which would result in the formation of an enclave. Then it is our intention that no area should be taken out of the State if by so doing the economic interest of the State as a whole or of the territory to which it acceded under the plebiscite whould be materially damaged or threatened. It will be seen of course that this proposal does not in any way affect the principle that the future of the State as a whole will be decided by the majority of all the inhabitants of the State eligible to vote. Any adjustments that may be made in accordance with this sub-paragraph would be subsequent to the determination of the accession of the State as a whole and would be designed purely to avoid the incorporation in the territory of whichever of the two parties won the plebiscite of areas which contained an overwhelming number of inhabitants opposed to such incorporation. We have not attempted to work out the details of this new provision. This in our view could suitably be left until agreement has been reached on the immediate problems which are still preventing the plebiscite from being held. We should hope that the Plebiscite Administrator, in consultation with the two parties, would be able to prepare a detailed plan acceptable to both governments to give effect to the principles expressed in the sub-paragraph.

Such are the main features of the draft resolution now before the Security Council. It is, I can assure the members of the Council, the fruit of the most mature consideration not only by the United States Government and His Majesty's Government but by certain other governments as well. It is submitted in all earnestness and good faith and, I should add,

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in a spirit of hope and not of despair. When one considers that any attempt to settle this vexed question by force would be so immeasurably more disastrous to both sides than any possible solution in accordance with the means now suggested; when one further reflects that even a continuance of the present tension, with all its economic and political effects, would also be far more damaging to both sides than any possible disadvantages which the decision of the people of Jammu and Kashmir could produce; and when finally one contemplates the condition of the world in which this at one time fratricidal struggle is now being conducted, then one can scarcely believe that an agreed solution is impossible of achievement by reasonable human beings. It is in this mood that we present our resolution to the Security Council and to the representatives of the two great nations concerned, not seeking to impose, but only anxious to serve.

58. Text of the Speech made by Mr. Gross (United States of America) in the Security Council Meeting No. 532 held on 21 Febarury, 1951

In speaking of the draft resolution submitted to the Security Council today by the United Kingdom and the United States, I wish, at the outset, to call the attention of the Council to the statement made by Sir Owen Dixon in his report submitted to the President of the Council on 15 September last. I think that this statement, which so well indicates Sir Owen's attitude in his negotiations, should be borne in mind by the Council today. He said :

> "It was obvious to me that in my attempt to settle the dispute it must be governed by the course that had been taken by the Security Council and the United Nations Commission for India and Pakistan and agreed upon by the parties. It might be true that the chances of such a course proving successful were much reduced by the failure of the parties over so long a period of time, notwithstanding the

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assistance of the Commission, to agree upon any practical measures in pursuance of that course for the solution of the problem. But the terms of the agreed resolution of 5 January 1949 were specific in appointing a free and impartial plebiscite as the means by which the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided. What was wanting was agreement upon the matters, including demilitarization, which were preliminary to even the commencement of the necessary arrangements for the taking of a poll of the inhabitants."

Sir Owen's statement, in my opinion, sets the tone for our deliberations on the Kashmir question. It is the foundation for the resolution submitted today for the Council's consideration.

The item before us opens up for the Security Council the continuance of its fouction of bringing about, by peaceful means and in conformity with the principles of justice and international law, the adjustment or settlement of an international dispute. I believe it is clear that the Council can effectively do this and that, in this case, it has proceeded on the basis that it is the agreement of the parties on which a lasting political settlement must be built.

A very important affirmative element in this case, which has been singularly lacking in others immediately concerning us, is the fact that the Prime Ministers of Pakistan and India have indicated in the clearest terms that there exists on the part of both governments the will to settle the Kashmir case peacefully and to examine solutions carefully. Also, the area of disagreement has been narrowed. Thus the Security Council comes to this case with this affirmative attitude of the parties, and I think all would agree that the Council can best exercise its function by narrowing further the area of disagreement. That is the premise on which the draft resolution before the Council is based.

There are two main questions which my government believes are the primary business of the Council in its conti-

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nued consideration of the Kashmir problem. The first is an action, which has been described by the representative of the United Kingdom, which the authorities in the Indian-controlled area of Kashmir are undertaking in order to determine the future shape and affiliation of the State. The second is the matter of bringing about a final solution of the case in accordance with principle peaceful settlement. The first issue is presented in the preamble of the draft resolution and the second is dealt with in the operative paragraphs.

The members of the Security Council were advised, through a letter addressed to the President of the Council by the Minister for Foreign Affairs of the Government of Pakistan, Sir Mohammad Zafrulla Khan on 14 December 1950, of a resolution of the All Jammu and Kashmir National Conference. Sir Gladwyn Jebb has also made reference to this. This Conference met in the area of the State under the general control of the Indian Government. This resolution was proposed on 27 October 1950; it was adopted on 28 October, the following day; and it was reportedly fully endorsed by the Prime Minister of India.

The resolution proposed the convening of a constituent assembly to determine the future form of government of the government of the entire State, including the areas under Pakistan control, and to determine the question of the State's affiliation. More recent Press reports from Kashmir and India have described how the implementation of this resolution has begun. According to these report, electoral rolls in Indian-occupied areas of Kashmir are expected to be completed by March of this year, and elections may be held in June or July. Although the Pakistan-held parts of Kashmir would not participate in the vote, the decisions of the Constituent Assembly will be held applicable to all parts of the State including the Pakistan-controlled areas. It is our impression that the proclamation which ordered the carrying into effect of these steps implementing the 28 October Kashmir National Conference resolution was approved by the Government of India.

When the Governments of India and Pakistan accepted in writing the principles formulated in the 5 January

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1949 resolution of the United Nations Commission for India and Pakistan, both governments agreed that the question of accesion of the State of Jammu and Kashmir would be decided through the democratic method of a free and imparial plebiscite under United Nations auspcices I emphasize "free and impartial" as well as "United Nations auspices" because it seems clear that these phrases support each other in a gaurantee to the world and to each party that the plebiscite would be so fair that objective and dispasssionate observers could not criticize it in any way. Equally important to the idea of a free and impartial plebiscite is the guarantee to the Government of India and Pakistan that each will have its interest protected by a plebiscite under United Nations auspices, so that the outcome will not be held unfair and the result of coercion or intimidation.

The United States Government firmly believes that there can be no real and lasting settlement of the Kashmir dispute which is not acceptable to both parties. Any attempt to decide the issue without the consent of both parties would only leave a constant and explosive irritant in the relations between these two government, an irritant which would effectively prevent the bringing about of peace and security in South Asia. Our friendship for the Governments and peoples of Pakstan and India has led us always to stand ready to extend whatever aid and service we can in contributing to their friendly and peaceful relationship. The Prime Minister of India on 2 November 1947, in a radio broadcas', stated that the future of Kashmir should be settled by a referendum held under international auspices, such as the United Nations. He repeated this pledge in Press statements as late as 0 September 1950 and 16 January 1951.

Moreover, in the light of the commitment of the Government of India, as expressed in its acceptance of the 5 January 1949 resolution of the United Nations Commission for India and Pakistan, it is clear that such plebiscite can be held only under United Nations auspices, if it is to provide the guarantees of fairness and impartiality expressed in the Commission's resolution. My government is in full agreement with the

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view expressed by the United Kingdom representative that the action proposal by the Kashmir National Conference would not bring about such a fair and impartial plebiscite.

The draft resolution presented by the United Kingdom and the United States at this meeting proposes that a declaration to this effect be adopted by the Security Council. We also share the view of the representative of the United Kingdom that the Council cannot accept or approve of a plebiscite conducted without the approval or supervision of the Council or its representatives. Our friendship for the Governments and peoples of India and Pakistan should not deter us from expressing ourselves on this point. I was impressed by the sober anxiety which Sir Gladwyn Jebb voiced on this matter, and with him I believe that if the Security Council hears an explanation we shall find ourselves reassured that what is intended does not prejudice the parties' prior commitments. I should like in particular to associate myself with the statement of the representative of the United Kingdom, from which I quote : "...no reference to the wishes of the people of Kashmir regarding the future accession of the State made otherwise than under the auspices and with the full consent of the United Nations can be regarded as constituting a settlement acceptable to this Council".

Turning to the operative part of the draft resolution which we have introduced with the United Kingdom, it proposes the appointment of a United Nations representative to effect the demilitarization of the State of Jammu and Kashmir on the basis of demilitarization proposals made previously by Sir Owen Dixon, with such modifications as the United Nations representative deems advisable ; and to present to the parties and obtain their agreement on detailed principles for carrying out the plebiscite. In order to explain the reasons for this proposal, I think it advisable to review briefly the history of negotiations in this case.

The Kashmir dispute was brought before the Security Council on 1 January 1948, more than three years ago. Since then the Security Council has made three separate attempts to aid the parties in reaching a reasonable solution

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of the dispute. There have been a number of diplomatic approaches by the United Kingdom, and by the United States as well, supplementing these United Nations efforts. On 20 January 1948, the United Nations Commission for India and Pakistan was established by the Security Council [*S/654*], and was able afrer extended negotiations to obtain agreement to a cease-fire and other principles under which a truce and plebiscite could be brought about.

Both parties agreed that the question of accession of the State to India or Pakistan should be decided by a State-wide plebiscite under United Nations auspices. This agreement between the parties was formalized in the resolution of 5 January 1949 of the United Nations Commission for India and Pakistan. The Commission was unable, however, to bring about demilitarization and the holding of a plebiscite. In December 1949, the Security Council requested its President of that month, General McNaughton of Canada, to consult with the parties in order to help them find a mutually satisfactory basis for dealing with the Kashmir dispute. General McNaughton reported on 3 February 1950 [*S/1453*] that he had not been successful ; that while the Pakistan Government had accepted his proposals in substance, the Government of India did not agree on the same important issues concerning which the United Nations Commission for India and Pakistan had previously reported its inability to obtain Indian acceptance of the Commission's various proposals.

In view of General McNaughton's failure, the Council then decided on 14 March 1950 [*470th meeting*] to appoint a United Nations representative to take the place of the United Nations Commission for India and Pakistan and to aid the parties to work out a demilitarization programme, as well as to offer any suggestions which might contribute to the solution of the Kashmir dispute. Sir Owen Dixon was appointed United Nations representative on 12 April 1950 [*471st meeting*]. He spent from May until the end of August in investigation and negotiations on the sub-contiuent. Sir Owen presented various proposals to the Prime Ministers of India and Pakistan regarding the measures necessary to make it

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possible to hold a State-wide plebiscite to determine the future of Kashmir.

Having been unsuccessful in obtaining the agreement of the Government of India to his demilitarization proposals and his suggestions for conditions which, in his opinion, would assure a fair and impartial Statewide plebiscite, the United Nations representative then ascertained the reactions of the two Prime Ministers to various plans alternative to that of an over-all plebiscite. While the Government of India appeared interested in certain of these suggestions, the Government of Pakistan contended that they contravened India's commitment to determine the future of the State as a whole by a State-wide plebiscite. Despite this apparent impasse, Sir Owen continued his negotiations in August, and persuaded the Government of Pakistan to agree to discuss possible alternative settlements without abandoning their adherence to the principle of a State-wide plebiscite, provided that the Government of India would agree to accept a plan to be drafted by Sir Owen containing conditions for a fair and impartial plebiscite in the general area of the Vale of Kashmir. Sir Owen drew up such a plan, but it proved unacceptable to the Government of India. Consequently, Sir Owen left the sub-continent on 23 August, both Prime Ministers having agreed that there was nothing further he could do under his terms of reference.

Since Sir Owen filed the report with the Security Council in September, the Council has not met to consider the Kashmir dispute. However, in London in January of this year, the Commonwealth Prime Ministers, as has already been mentioned by the United Kingdom representative, attempted, I understand, to make some progress toward a solution of this issue.

This recital of earnest but unavailing efforts to bring about a final solution of the Kashmir dispute may seem at first hearing to present a picture which offers little hope of eventual solution for this perplexing issue, so disruptive to the peace and security of the world. On the contrary, upon reflection, I think we may draw renewed faith that we can advance toward a final and lasting peaceful settlement of the Kashmir question. When the dispute was first laid before

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the Security Council in January 1948, an undeclared war was raging in Kashmir and threatening to spread beyond its borders. Thanks to the efforts of the Security Council and its representatives, the fighting was stopped. The parties exhibited a most co-operative attitude in agreeing to the cessation of hostilities, and themselves worked out the cease-fire line. Moreover, throughout the continuing negotiations, the Prime Ministers of both countries have steadily reiterated their earnest desire to settle by peaceful means this dispute as well as all other existing disagreements between them. In a statement on 30 September 1950, the Prime Minister of India affirmed that "India has always been prepared to agree for the duration of the plebiscite, and for a suitable period preceding it, to the appointment of United Nations representatives enjoying powers which.....would be sufficient to ensure that every national of Jammu and Kashmir casts his vote freely and without fear". On 16 January 1951, the Indian Premier declared that "India has repeatedly offered to work out with the United Nations reasonable safeguards to enable the people of Kashmir to express their will, and is always ready to do so".

Likewise, Prime Minister Liaqut Ali Khan of Pakistan, in a statement to the Pakistan Parliament on 5 October 1950, said, "We want to live on the friendliest terms possible with India. We want to settle all our disputes peacefully". In the published correspondence between the Prime Ministers of India and Pakistan regarding the peaceful settlement of disputes between the two countries the Prime Minister of Pakistan is quoted in a letter dated 27 November 1950, as saying to Mr. Nehru, "I have also declared over and over again that Pakistan wants peaceful settlement of the Kashmir question." He added, "I agree with you that it is our common misfortune that this correspondence seems to have produced no positive result. Despite my deep disappointment, I assure you that I still believe that it is in the highest degree essential that our two governments should settle all disputes by peaceful methods. I am convinced, and I am never tired of saying so, that a war between India and Pakistan would be an unmiti-

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gated disaster for both countries and I assure you that I shall continue to work for peace".

The United States Government believes that the quoted utterances of the Prime Ministers of these two great countries indicate most clearly not only that there exists on the part of both governments the will to settle the Kashmir dispute peaceably and to examine solutions carefully, but also that the area of disagreement has been narrowed. The Security Council can best exercise its functions to narrow further this area of disagreement by effecting demilitarization of Kashmir as a prerequisite to conducting a plebiscite. The previous negotiations in this dispute have pointed up the area of disagreement as involving, primarily : first, the procedure for and the extent of demilitarization of the State of Jammu and Kashmir preparatory to holding a plebiscite ; and secondly, the degree of control it would be necessary to exercise over the functions of government in the State in order to ensure a fair and impartial plebiscite. The draft resolution sponsored by the United Kingdom and the United States proposes to deal with these two principal issues.

It provides for the appointment of a United Nations representative to succeed to the post resigned by Sir Owen Dixon, but with amplified and strengthened terms of reference. The United Nations representative would have two principal tasks. He would effect the demilitarization of the State on the basis of the demilitarization proposals which had previously been presented by Sir Owen Dixon, with such modifications as he himself deems advisable. He would present to the parties, and obtain their agreement on, a detailed plan for carrying out a plebiscite in the State in order to give effect to their solemn commitment that the future of the State is to be decided by a free and impartial plebiscite conducted under United Nations auspices. The resolution of 14 March 1950 placed the burden of preparing and executing the demilitarization programme upon the parties themselves, assisted by the United Nations representative. There was no reference in that resolution to the working out of a detailed plebiscite plan. The present draft resolution proposes that the United Nations representative, after consultation with the two governments in

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regard to their differences, himself effect the demilitarization of the State and assume the initiative in presenting to the two governments and obtaining their agreement to a detailed plan for the plebiscite.

The United Nations representative is authorized to take into account four considerations which, although they are definitely not exclusive of any others, we regard as important suggestions by the Security Council of possibilities which might well be considered when the United Nations representative frames his proposals to the Governments of India and Pakistan. My United Kingdom colleague has described these possibilities in some detail, and I shall merely cite them without extensive analysis of their content.

First is the report of Sir Owen which describes his most careful and objective attempt to present proposals which would meet the principal objections of the parties to both demilitarization and the general form of a plebiscite. As the most recent attempt by a Security Council representative to help the parties in settling this dispute, it contains valuable information which undoubtedly will aid the new United Nations representative.

Secondly, there is the possibility that, for purposes of maintaining order and guaranteeing the State from external aggression during the period of demilitarization and the holding of the plebiscite, forces might be provided from States Members of the United Nations or raised locally.

Thirdly, there is the possibility that, although a State-wide plebiscite would decide the accession of Kashmir on the basis of majority vote, the losing party might, subsequent to the plebiscite, be assigned those local areas in which such party had obtained the over whelming majority local vote. The qualification to this suggestion is, of course, that due account must be taken of geographic and economic considerations which would vitally affect both sides.

Fourthly, there is the possibility that, while affirming the principle that there must be United Nations supervision over the functions of government in the State during the demilitarization and plebiscite periods, it may be appropriate to have

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different degrees of such supervision for different areas of the State.

The draft resolution has one more major provision designed to strengthen the hand of the United Nations representative in his negotiations, and to aid the parties to reach a full and lasting settlement of this complex problem. This provision calls upon the parties to accept arbitration upon the points of difference remaining unresolved despite the efforts of the United Nations representative. The United Kingdom, as was made clear by Sir Gladwyn Jebbs's statement this afternoon, and the United States believe it necessary that still another Charter device for peaceful settlement should be provided whereby unresolved issues can be settled objectively. In this way the parties and the United Nations representative may be assured that the Security Council is firmly resolved that all possible means for peaceful settlement to bring about a full solution of the Kashmir dispute should be offered the parties. I believe that it is the duty of the Council to call to the attention of both governments their obligation under the Charter of the United Nations to seek a solution by all manner of peaceful means, including arbitration.

These are the essential elements of the draft resolution which the United Kingdom and the United States have placed before the Security Council today for discussion. I know that the members of the Council and the parties will want to study the terms of the draft resolution with great care.

In concluding my remarks, I wish to emphasize my deep concern that the Security Council should give prompt consideration to this draft resolution. The situation on the sub-continent, in which the Kashmir dispute provides a constant irritant prejudicing friendly relations between the parties and injuring their economic well-being, demands that the Security Council press forward suggestions which it believes may help the parties towards a reasonable and acceptable determination of this dispute. I sincerely believe that this draft resolution offers good possibilities for successfully channeling the Council's activities in the direction of practical aid to the parties. The time and the situation demand this

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aid, and require that it be given without thought of criticizing either of the parties or attempting to sit in judgment upon them.

59. Text of the Speech made by Mr. Gladwyn Jebb (United Kingdom) in the Security Council Meeting No. 537 held on 21 March, 1951

Members of the Council have heard in the statements which my two Commonwealth colleagues have made at our recent meetings a detailed and lucid exposition of the points of view of the Governments of India and Pakistan on the matter before us. We are indebted to the two representatives for the thoroughness with which they have analysed this complex problem. One thing at least can be said about the Kashmir case, and that is that no other case which has come before the Security Council has ever been presented by both sides with such commanding ability.

I do not now intend, however, to ask the Council to weigh the relative merits of the many arguments which have been advanced by the two representatives. It will be remembered that, in the statement which I made [*532nd meeting*] when my United States colleague and I introduced our joint draft resolution [*S/2017*], I expressed my belief that, in spite of the many points of detail which have emerged during the long negotiations, the broad issues which the Council must consider, and on which we should endeavour to persuade the parties to concentrate their attention, are relatively simple. The broad issues, I repeat, are relatively simple. Nothing which my two colleagues from India and Pakistan have said during their statements has changed this belief. Indeed as I listened to the views which they put forward, it was brought home to me even more forcibly that, in spite of their many differences on this question, their agreement to decide the future accession of the State of Jammu and Kashmir by a fair and impartial plebiscite conducted under United Nations auspices, and their agreement to the specific proposals for holding the plebiscite

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contained in the two resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 [*S/1100, S/1196*] completely overshadow the significance of their disagreements on points of detail. The picture which their statements built in my mind was one of the clearly defined objective which both parties are equally anxious to reach and of certain obstacles in the path leading to this objective, the best way of surmounting which is still in dispute between them. I am sure the Council will agree with me that we must do our utmost to concentrate the attention of the parties on the objective and to persuade them, if, we can, of the futility of allowing these obstacles to prevent them from attaining it. This must be the plain duty of all those not themselves involved in the dispute and, in particular, I suggest, of all members of the Security Council.

I shall not deal in detail, therefore, with the many arguments which have been advanced and I shall ask the Council to consider only those arguments which have a direct bearing on how the two agreed resolution of the Commission can be put into effect. I shall return to these in a moment.

But first, I should like to remind the Council that, in the statement which I made when introducing the resolution which my United States colleague and I jointly co-sponsored, I said :

> "I wish to emphasize from the outset that the submission of this draft resolution is not intended in any way to pre-judge the Council is deliberations or the views which the Indian and Pakistan representative will no doubt put forward. It seemed to my Government, however, that it might be helpful for the Council to have a draft resolution before it is a basis for discussion...".

As a result of the views expressed by my two colleagues from India and Pakistan, and also as a result of private consultations which have been held with them, a modified joint draft resolution has now been drawn up by the United Stated and United Kingdom Governments. This has been circulated

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as document S/2017/Rev. 1, and copies of it are now before members of the Council.

The Council will be aware that the representative of Brazil has recently made determined and, indeed, most welcome efforts to bridge the difference between the two parties. I hope that he himself will give the Council an account of the proposals which he put forward and the responses which he received. I think he will forgive me if I say now that the point which emerged from his negotiations was that the Government of India was unable to accept arbitration in any form as a way of resolving the disagreements regarding the interpretation and application of the two resolutions of the United Nations Commission for India and Pakistan. I believe that, on the other hand, the Government of Pakistan, as was emphasized by my colleague Sir Mohammad Zafrulla Khan in his statement to the Council [*534th, 535th meetings*], was completely ready to accept any arbitration which the Council thought desirable to resolve these disagreements. That, I think, is the crux of this matter.

Members will see that in the modified draft resolution which my United States colleague and I have tabled we have retained provision for arbitration. We have not done this without a great deal of anxious thought, or without weighing carefully all the arguments which were advanced on behalf of the Government of India : we have considered whether arbitration would, as my colleague suggested, threaten the security of India ; we have considered whether there is any way in which arbitration on the interpretation and application of the agreements, of which both the Government of India and Pakistan have repeatedly affirmed their acceptance, would in any way prejudice the rights or interfere with the proper responsibilities of the Government of India, and I must say to members of the Council that we—for I believe I can associate the representative of the United States in this—have been unable to see how arbitration in the form which we have proposed could in any way act to the detriment of the Government of India's rights and responsibilities. Indeed, in a matter such as this, where an international agreement,

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it seem to us to be the only right course to accept arbitration in differences concerning its interpretation and application.

My Government was aware, of course, that the Government of India had been unwilling to submit these matters to arbitration by a single individual, and we have, therefore, tried to meet any anxieties which it may have on this score by providing for a panel of arbitrators nominated by the President of the International Court of Justice. We can be satisfied, I am sure, that arbitration in this form would guarantee both parties a completely fair and objective determination of their disagreements arising out of the two resolutions of the Commission. I hope that members of the Council in the statements which they will no doubt be making will feel able to affirm their Governments, support for the use of arbitration in matters like this, and that they will, by voting for the draft resolution, support the co-sponsors in their view that agreement on arbitration is now the obvious and essential step for the Governments of India and Pakistan to take.

If members of the Council will now compare the modified draft resolution with the original draft resolution I shall try to explain the considerations which the co-sponsors had in mind in making the various changes. First of all, in the second paragraph of the preamble it will be seen that we have omitted reference to the Security Council resolution of 14 March 1950 [*S/1461*]. It will be remembered that both parties in their statements insisted that the Council should follow as closely as possible the two agreed Commission resolutions and that, in particular, the representative of India objected to the provision contained in the original joint draft resolution for demilitarization to be carried out on the basis of Sir Owen Dixon's proposals which, in certain respects, went beyond the demilitarization plan contained in the two agreed resolutions. We have, therefore, tried to meet the views of the two parties by concentrating in our amended draft resolution on ways of giving effect to those two earlier agreed resolutions. That is the only reason for the ommission that I have just mentioned.

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The next amendment is in operative paragraph 3. There again our object has been to meet the objections raised by both parties to the inclusion of provisions which go beyond the two Commission resolutions. We have been glad to meet Sir Benegal Rau's point that demilitarization must be in accordance with the agreed plan and not in accordance with subsequent modifications of it. I think, however, that it is only right for me to explain to the Council that our amendment here in no way implies that my Government, at any rate, disagrees with the demilitarization proposals put forward by Sir Owen Dixon and, indeed, I think that my colleague from India was, if I may say so, a little less than fair to Sir Owen in his analysis of these proposals [*533rd meeting*]. But that is a side issue which I need not explore here. The point I wish to emphasize is that the form of demilitarization referred to in the amended paragraph 3 is precisely that which we understand the Government of India desires to see put into effect.

It will also be noticed that we have omitted the sub-paragraph 3 (ii) of the original draft resolution. This again has been done because, in a sense, it might be thought to have gone beyond the two agreed Commission resolutions. Since the task of preparing detailed plans for carrying out the plebiscite is the responsibility of the Plebiscite Administrator, we have, therefore thought it better to omit this provision from the present draft resolution.

We have also omitted the whole of paragraph 4. Members of the Council will remember that in presenting the original draft resolution the representative of the United States and I explained how we thought the three possibilities mentioned in this paragraph might help to remove difficulties preventing the settlement of the Kashmir problem. I should not wish to withdraw anything that I said in support, for instance, of a neutral force, the possibility of certain limited boundary adjustments and the idea that the degree of supervision over the plebiscite might suitably be varied from area to area in the State, and although these ideas, as we see, have been left out of the revised draft resolution, His Majesty's Government in the United Kingdom hopes that the Council

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and the two parties will continue to have them in mind in case, at some later stage in the negotiations, they should feel that they would, after all, provide the solution to some of the difficulties which we have to resolve. In particular the proposal for a neutral force which certain Member States were prepared to provide still seems to my Government to be a valuable one. I make my Government's view on this point quite clear. I made it quite clear in my initial statement, and I will not say anything further now except to express the hope that the Government of India, should disagreement on the question of demilitarization continue, will feel able to waive its objections and agree to the replacement of the military forces of all interested parties by some suitable neutral force.

The new paragraph 4 of the revised draft resolution is the same as the original paragraph 5, with an omission at the end made necessary by the change in paragraph 3.

Paragraph 5 of the revised draft resolution is the same as the original paragraph 6. It will be seen, however, that we have defined more closely the matters which would be submitted to arbitration. As I have said earlier, we regard points of difference in regard to the interpretation and execution of the agreed Commission resolutions to be eminently suitable for determination by this method.

Paragraph 6 of the revised draft resolution, again is substantially the same as the corresponding paragraph in the original draft resolution ; it has been expanded a little to tie it in more closely with the report which the United Nations representative is required, under paragraph 5, to submit, and the President of the International Court of Justice has been made the authority for appointing the arbitrators instead of the International Court as a whole. It was felt that this was more in accordance with international practice and also a more convenient arrangement. It will also be noticed that the wording at the end has been slightly changed to emphasize that these appointments are to be made after consultation with the parties and that, while the views of the parties will of course be taken into full account, objections by either of them

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to the arbitrators nominated by the President would not be a bar to their appointment.

Those are the differences which we have made in the revised draft resolution. I do not think I need give the Council any further explanation of the reasons which the co-sponsors had in mind in making them. They are all quite straightforward and, I would hope, with make the draft resolution more acceptable to the Governments of India and Pakistan. I should like, however, to say a few words about changes which we have not felt it possible, for instance, to omit provision for arbitration. I am sure the Council will agree with us on this point. Arbitration is, after all, one of the methods mentioned by the Charter for resolving international disputes and it is, therefore, a method which all Members of the United Nations have in principle already accepted in signing the Charter. All of us know that great efforts have been made both by the United Nations Commission, and subsequently by General McNaughton and Sir Owen Dixon, to find some way of resolving the disagreements between the two parties.

All those various representatives of the Security Council have acted as mediators and have had no power to do other than to endeavour by persuation to negotiate an agreement between the parties. The Government of the United Kingdom feels very strongly that the time is now past when these disagreements can be dealt with in this way. The dispute over the future of Kashmir is not one which time will help to solve. I am afraid that is an all too obvious statement. I need not labour this point, and I hope that the Council will accept the retention of arbitration in the new draft resolution as the most effective way of moving forward towards a settlement. We must hope that if the Council expresses its conviction on this point, the Government of India will find itself able to waive the objections which the representative of India has recently expressed.

There remains the question of the Kashmir constituent assembly. It will be seen that the paragraphs in the preamble which deal with this particular point have been retained in the

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amended draft resolution. I wish I could say to the Council that we feel satisfied from what the representative of India has said that the Government of Pakistan has no cause for disquiet in respect of the proposed constituent assembly. Indeed, if it had not been for a series of disturbing pronouncements by Sheikh Abdullah and by Ministers of the Government of India and of the Kashmir State Government, the Council would probably have felt that what the representative of India has told the Council was a sufficient guarantee that nothing would be done by the constituent assembly which would in any way prejudice the settlement of the future accession of Kashmir in the manner to which the two Governments and this Council are committed.

But when the Council is confronted with a statement by the Prime Minister of the Kashmir State Government that "without caring for the opposition of Pakistan, Britain and America, the proposed constituent assembly for the State will be set up on the due date to decide all big issues, including accession", the view of the Government of India, as stated by its representative, that "while the constituent assembly may, if it so desires, express an opinion on this question, it can take no decision on it", does not hold out any real promise that the Government of India will take all steps possible to prevent the Kashmir State Government from action which must inevitably prejudice the work of the United Nations in settling this dispute. I therefore wish to make a further earnest appeal to the representative of India to make it clear beyond all doubt that his Government will do everything in its power to prevent action which will damage the work of the Council, of which he himself is so distinguished a member.

Finally, I wish to deal with one general point which arises out of the statement of the representative of India, and that is the assumption which I detected behind a number of his remarks that the accession of Kashmir has already been settled and that all that remains is for the people of Kashmir to confirm that the State shall remain a part of the Indian Union. I have already referred to the letter to the Maharaja of Kashmir from the Governor-General of India, dated

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27 October 1947, in which he said, "the question of accession should be decided in accordance with the wishes of the people of the State". I do not think I need draw the attention of members of the Council to the various resolutions which both the Council and the United Nations Commission for India and Pakistan have from time to time adopted in which the decision that the accession of the State should be decided through the democratic method of a free and impartial plebiscite has been constantly re-affirmed. The assumption made by the representative of India that the accession has been settled and that no more remains except to give the inhabitants of the State an opportunity to decide whether they should remain in India or not, in the view of my Government cuts right across the very principles on which the Council and, we have always understood, the two parties also, have been striving to effect a settlement. Of course members of the Council will all share my desire not to read anything into the statement of the representative of India which was not intended, and I am sure we shall all be most reluctant to interpret his statement in a sense which would suggest that the Government of India is in any way abandoning the pledges which it has always so categorically affirmed.

But the combination of the proposal for establishing a constituent assembly with the suggestion that all that is now required is to give the people of Kashmir an opportunity to decide whether they should remain in India or not, will inevitably raise apprehensions in the minds of members of the Council that the Government of India does contemplate a method of ascertaining the wishes of the people on this question of accession which would be wholly inconsistent with the principles to which it, the Government of Pakistan and the Council have all along subscribed. I should therefore like in conclusion to appeal to the representative of India to set at rest any doubts which members of the Council may have on this point, by re-affirming quite explicity and categorically that the Government of India does intend to adhere to its undertaking to settle the future accession of the State of Jammu and Kashmir by a free and impartial plebiscite conducted

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under the auspices of the United Nations. A statement to this effect would, I am sure, be most welcome to the Council ; if it could be combined with a more encouraging response to the efforts which the Council has been making for so long to resolve the disagreements between the two Governments, then we should all, I am certain, be greatly heartened.

From what I have said it will be observed that in the opinion of my delegation at any rate, we have now come to a turning point. The Security Council, we suggest, must very shortly face the issue, and by passing the revised draft resolution without hesitation, make known its definite attitude as regards this long drawn out dispute. By doing so it would at least make it clear that the United Nations, as well as the two parties, is concerned with one thing and one thing only, which is that wild talk of war on one side or the other must stop and that the solution of this admittedly difficult problem must now be achieved by peaceful means, and indeed essentially by the means laid down in the Charter to which we have all subscribed. This is what we shall be doing if we now adopt the revised draft resolution.

60. Text of the Speech made by Mr. Gross (United States of America) in the Security Council Meeting No. 537 held on 22 March, 1951

When I last spoke in the Security Council concerning the India-Pakistan question, on 21 February [*532nd meeting*]. I said that the United States Government believes the Council should exercise its responsibility to narrow further the area of disagreement between the parties. We think this responsibility can best be performed by effecting the demilitarization of Kashmir in order that a plebiscite can be held under United Nations auspices. The joint draft resolution, introduced by the United Kingdom and the United States, proposed to deal with the principal issues arising in this area of disagreement by establishing machinery which we believed would capitalize on

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the experience of the past two years of repeated attempts to carry out the 13 August 1948 and 5 January 1949 resolutions of the United Nations Commission for India and Pakistan.

The United States, in acting with the Government of the United Kingdom to offer this draft resolution last month, did not believe that the machinery provided by the resolution which we put forward then was the only means of helping the parties advance towards a settlement of this dispute. However, we thought it was a reasonable proposal and, like any suggested device for helping solve a complex issue, it was always open to revision designed to improve the suggestion we made while retaining the essential minimum necessary, in our view, to help advance the dispute toward a reasonable solution acceptable to both parties. That was the basis upon which we, along with the United Kingdom, submitted our draft resolution.

Since then the Governments of both Pakistan and India have voiced objections to the draft resolution as submitted. The Government of Pakistan indicated, through its distinguished spokesman, that it would prefer a resolution by which the Security Council would order the United Nations representative to carry out the provisions of the resolutions of the United Nations Commission for India and Pakistan, which I have mentioned ; which would give the Council's representative the power to remove or disband all the military forces, and to exercise effective supervision over State authorities in assuring a fair and free plebiscite ; and which would also give to the representative the power to arbitrate all points of difference between the parties arising from implementation of these two resolutions.

On its part, the Government of India, through Sir Benegal Rau, declared that it was wholly unable to accept the draft resolution, because it conceived the resolution, in many respects, to go beyond the terms of the 13 August 1948 and 5 January 1949 resolutions of the United Nations Commission. The representative of India particularly mentioned the reference in the draft resolution to Sir Owen Dixon's demilitarization proposals, and the possibility that United Nations

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troops might be used to facilitate demilitarization and the holding of a plebiscite.

In accordance with our concept that the joint draft resolution submitted on 21 February last might be improved by revision—as long as the objective remained of providing machinery to help the parties advance toward a reasonable and mutually acceptable solution of the dispute—we have joined with the United Kingdom in sponsoring revisions of that draft resolution of 21 February. These revisions, as has been so ably pointed out by Sir Gladwyn Jebb, take into account objections made by both parties, the most important of these being the insistence by the Governments of both India and Pakistan on holding firm to the August 1948 and January 1949 resolutions of the United Nations Commission for India and Pakistan. The revised text is, in my opinion, the irreducible minimum in this case if the Council is to provide machinery which will in fact aid the parties to carry out their commitments, as Members of the United Nations, to settle their disputes by peaceful means.

These amendments have four principal effects, which I should like now briefly to outline. In the first place, the United Nations representative would now be charged with the duty of effecting demilitarization of the State of Jammu and Kashmir on the basis of the two United Nations Commission resolutions of 13 August 1948 and 5 January 1949. This does not mean that we believe the United Nations representative should disregard the efforts of more than two years by General Mc Naughton and by Sir Owen Dixon in attempting to carry out these two resolutions. This experience surely forms a part of the record of the Security Council and neither can nor should be ignored.

In this connexion, we believe that both parties should be led, by virtue of their attitude as expressed here toward the two resolutions of the United Nations Commission, to give the United Nations representative their detailed plans for carrying out these resolutions. We are most pleased to note the reaffirmation by the representative of India of his Government's firm adherence to these two resolutions, and his state-

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ment that they contain adequate provisions for a free and impartial plebiscite under United Nations auspices. We cannot, however, agree with Sir Benegal Rau's emphasis that the Government of India cannot make what he described as further "concessions". That is not a matter of making concessions, but of giving effect to a commitment. The responsibility of the Government of India and of the Government of Pakistan, under their international commitment in accepting these two resolutions, is to co-operate in settling the question of accession to India or Pakistan by a free and impartial plebiscite under United Nations auspices. The United Nations Commission's resolutions provide merely a framework which remains to be filled in; these resolutions do not set forth a complete plan for accomplishing demilitarization and a plebiscite. The parties will have to develop and consider with the United Nations representative the details which fill out the framework in implementing their commitment—details over which the Governments of India and Pakistan have unhappily disagreed for more than two years. We feel that neither party can stop short, merely reaffirm the two resolutions of August 1948 and January 1949, and say that it cannot make further "concessions", thereby blocking further progress.

The parties, moreover, are committed to permit the people of Kashmir to decide the question of accession of the State of Jammu and Kashmir to India or to Pakistan. That commitment is not, as the distinguished representative of India has said, and I quote the words he used in the Security Council, "to give the people the right to decide whether they would remain in India or not". To phrase the plebiscite question in this form would be to disregard the binding agreement accepted by both parties. The Security Council has from the beginning held that the issue of accession is one which is to be settled by a fair and impartial plebiscite under United Nations auspices, and both parties, in the language of their own commitments, have accepted this view. I am confident, therefore, that Sir Benegal Rau did not have and did not intend to suggest a contrary interpretation.

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I emphasize this, now, to make clear the position of the United States Government in this vital matter. It is a position which rests upon the belief that the most fruitful approach which the Security Council can take at this stage is to provide the parties with machinery for the solution of this dispute.

The second of the four principal effects of the amendments is the complete elimination of paragraph 4 of the original draft. This change results from the thesis that the August 1948 and January 1949 resolutions should be set forth clearly as the basis upon which the United Nations representative is to effect demilitarization. The suggestions offered in paragraph 4 of the original draft were intended merely to provide helpful guide-posts to the United Nations representative in his efforts to work out a reasonable and mutually satisfactory solution of the Kashmir dispute. However, in view of the objections of both parties to these provisions, they have been deleted from the text.

Thirdly, if the United Nations reprensentative has not effected demilitarization or, at least, at least, obtained agreement of the parties to a plan for effective demilitarization, he is to report to the Council, within three months from the date of his arrival on the sub-continent, those points of difference between the parties, in regard to both interpretation and execution of the August 1948 and January 1949 resolutions, which he considers must be resolved in order to enable demilitarization to be carried out. This formulation by the Council's representative of these essential points of difference is important, not only in focusing the attention of the Security Council on the principal issues between the parties, but also because of the revised paragraph 6 and its arbitration proposal.

Paragraph 6, to which I now, turn, embodies the fourth principal change proposed in our revisions presented today. Although, as previously, the new draft calls upon both parties to accept arbitration upon such outstanding points of difference as may remain after concluding discussions with the United Nations representative, it is now altered to declare that

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arbitration should be accepted upon those points which may be reported to the Council by the United Nations representative. Furthermore, the arbitration proposal now provides that the arbitrator or panel of arbitrators is to be appointed by the President of the International Court of Justice after consultation with the parties, instead of by the Court as a whole. This latter change, we think, is more in accordance with the international practice, and should serve also to expedite the arbitration process if resort to arbitration should become necessary.

The Government of the United States regards this arbitration proposal as one of the key elements of this draft resolution. The representative of India has not, as we understand it, rejected the concept of arbitration, but has said that under the guise of arbitration issues cannot be reopened which have already been closed by the resolutions of August 1948 and January 1949 and by the assurances given to India by the United Nations Commission.

I trust that, if it becomes necessary to give effect to this arbitration provision, the Government of India will find itself able to accept the arbitration provisions of this resolution. The commitment of both parties in this dispute is to settle the question of accession by a fair and impartial plebiscite under United Nations supervision. It is also the parties commitment, under the Charter of the United Nations, to seek a solution by all manner of peaceful means of their own choice. When other peaceful means have been exhausted and interpretation must be made of the commitments entered into by both parties under the earlier resolutions of the Commission, then arbitration is logical in order to settle the issues preliminary to holding the actual plebiscite.

The members of the Security Council will note that the original draft resolution submitted by the United Kingdom and the United States remains the same in one important respect : the language in the preamble concerning the Kashmir National Conference has not been changed. In my statement on 21 February in support of the draft resolution [*532nd meeting*], I expressed my Government's concern about the

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action which the authorities in the Indian controlled area of Kashmir are undertaking to determine the future shape and affiliation of the State of Kashmir. I wondered whether it might interfere with a fair and impartial plebiscite under United Nations auspices in the entire state. I associated myself with the anxiety expressed by Sir Gladwyn Jebb in this regard, and hoped that, if the Security Council received an explanation, we would find ourselves reassured that the action of the Kashmir National Conference would not prejudice the prior commitments of the parties.

The representative of India, in adverting to this problem in his statements, declared that, so far as the Government of India is concerned, the constituent assembly is not intended to prejudice the issues before the Security Council or to come in the Council's way. He subsequently stated that, while the constituent assembly might, if it so desires, express an opinion on the question of accession, it could make no decision on the question. However, the representative of India also said that the Kashmir State Government is a unit of the Indian Federation, subject to federal jurisdiction in regard to defence, external affairs and communications, but completely autonomous in all other matters. Sir Benegal Rau emphasized the autonomous nature of the Kashmir Government, affirming that the State is entitled to frame its own constitution and to convene a constituent assembly for this purpose. In discussing the question of supervising the activities of the Kashmir State Government for purposes of a plebiscite, the representative of India emphasized that the authority of the Government of India over the Government of Kashmir is limited to certain subjects ; outside that sphere it could only advise and could not impose any decision.

In addition to this careful statement of the Government of India's limited control over the Government of the State of Kashmir, a number of statements bearing directly on the problem before the Security Council have been made recently by ranking leaders of the Governments of India and Kashmir concerning the constituent assembly and its purpose. One such statement was made by Sheikh Abdullah as recently as

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25 February, when he said that the constituent assembly would decide the question of accession of the State, as well as its form of government. The Government of the United States, therefore, believes the situation requires that the Security Council place on the record its attitude toward the constituent assembly and toward any attempts that the constituent assembly might make to determine the future shape and affiliation of Kashmir.

The United States believes that the Security Council can and should affirm what the parties have agreed upon—that final disposition of the State of Jammu and Kashmir will be made by the will of the people of Kashmir as expressed through a fair and impartial plebiscite conducted under United Nations auspices. We believe that it is important that the Security Council hold firm to the language in the preamble regarding this matter as a minimum statement of its attitude toward the proposed constituent assembly and toward the obligations of the Government of India in respect to this constituent assembly. The matter of the final disposition of the State of Jammu and Kashmir is an international question, a matter which this Council has had within its purview for more than three years. It clearly falls within the field of external affairs, and Sir Benegal Rau has told the Council that the external affairs of the Government of Kashmir are within the control of the Indian Government. The Security Council, therefore, should be entitled to assume that the Government of India will prevent the Government of Kashmir from taking action which would interfere with the responsibilities of this Council.

Members of the Security Council will note that paragraph 8 of the revised draft resolution calls upon the parties to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations, and to refrain from any action likely to prejudice a just and peaceful settlement. This language is similar to that used in previous Security Council resolutions in the course of this dispute. The Government of Pakistan and the Government of India have both condemned appeals

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to force to settle the Kashmir dispute, appeals which have been made by irresponsible and intemperate elements. Continued efforts by the parties to discourage such appeals to force will help ensure and maintain an atmosphere which is favourable to promoting further negotiations toward a peaceful settlement.

Let me close my remarks by repeating the hope of my Government that the Security Council will give serious and prompt consideration to the revised draft resolution. The proceedings before the Security Council since 21 Febtuary have indicated clearly the degree to which the Kashmir dispute continues to be an irritant prejudicing friendly relations between the Governments of these two great Powers, India and Pakistan. This dispute blocks the restoration of the friendship and mutual esteem which is necessary for the peace and security of South Asia. I believe that the Security Council must assist the parties to reach a peaceful and mutually acceptable solution of this protracted dispute. The draft resolution, as we have revised it, offer a reasonable device to help the parties solve a complex issue. It is offered in the sincere belief that the present frame of mind of both parties requires that the Security Council aid them in attempting to advance toward a solution, rather than leave them their own devices. As I said last February, the time and the situation demand that the Council give the parties practical aid, and give this aid with the earnest hope that it may, in those old and meaningful words, "speak to their condition".

61. Text of the Speech made by Mr. Munlz (Brazil) in the Security Council Meeting No. 538 held on 29 March, 1951

This is the fourth attempt by the Security Council to settle the complex question of Kashmir. As a result of previous painstaking efforts, the area of disagreement has been considerably narrowed. This is the main reason why,

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despite the many difficulties which still lie ahead, we must not lose hope, but should rather renew our endeavour in order to bring the parties to a lasting agreement. To facilitate our task, hard as it is, we have the advantage of an admirable system of peaceful settlement incorporated in the Charter of the United Nations, which combines all resources of traditional diplomacy and those of collective diplomacy and judicial procedure, allowing great flexibility in the use of the means best adapted to creating agreement. We have also the reiterated declarations by the heads of the two interested Governments, Prime Ministers Jawaharlal Nehru and Liaquat Ali Khan, of their intention to settle the question peacefully within the framework of the United Nations.

Notwithstanding the far-reaching political struggle of our time and the divisions and lack of understanding which beset international society today, it cannot be denied that the existence of the United Nations and its constant effort toward the establishment of a world order represent outstanding progress in organizing international collaboration on the basis of principle of justice which are freely accepted by the States of a condition for peace and security for all peoples. As the individual within his national frontiers cannot be the sole judge of his rights when they come in conflict with the rights others and must accept the decisions of courts charged with the task of giving to each his due, likewise it is only by accepting a supranational jurisdiction in case of disputes likely to threaten international peace that the States can avert war and live in peace in a world in which the countries are increasingly interdependent. The United Nations represents this supranational jurisdiction. Not only does it place at the disposal of governments a highly-developed machinery for the peaceful settlement of disputes, but it also molds world public opinion, which constitutes a powerful element for the maintenance of peace and security. Without the existence of an international control, the solution of the grave and intricate problems of Palestine and Indonesia could not have been reached.

I do not have to review all the aspects of the dispute between the Governments of India and Pakistan about the

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accession of the State of Jammu and Kashmir. This question has occupied the attention of the Security Council for nearly three years. All of the pertinent facts are matters of record. Besides, the lawyers who act as representatives of their respective Governments, Sir Benegal N. Rau for India and Sir Mohammad Zafrulla Khan for Pakistan, have greatly facilitated the task of the Council by presenting their case with such thoroughness and clarity that their pronuncements constitute classical utterances of English parliamentary and forensic literature. I am glad to pay tribute to these colleagues for the remarkable contribution they have made to the elucidation of the problem of Kashmir and for the forbearance and statemanship of their approach. I must equally render homage to the Governments of the United Kingdom and the United State for the assiduity and devotion with which they have sought to reconcile the two opposing sides in this dispute. Their latest efforts in this direction are the two draft resolutions tabled before the Security Council [*S/2017, S/2017/Rev. 1*] and the able and scholarly statements submitted by Sir Gladwyn Jebb and Mr. Ernest Gross [*532nd, 537th meetings*].

When the Government of India, confronted by disturbances arising from the form of the accession of the Jammu and Kashmir State, declared its unqualified intention to submit that question to a decision by the people of Kashmir through the democratic method of plebiscite under the auspices of the United Nations, the most important and constructive step leading to a fair and equitable disposal of the controversy was taken. That political decision, which shows a high regard for international morality, later found expression in the two resolutions of the United Nations Commission for India and Pakistan of August 1948 and January 1949, which where accepted by both India and Pakistan.

I think I am correct in saying that, by endorsing these two resolutions, the Governments of India and Pakistan definitely settled the most important political question involved in the final disposal of the Jammu and Kashmir State. The parties having agreed on the plebiscite as the method whereby

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the accession should be decided, and having agreed that the plebiscite would be conducted under the auspices of the United Nations, all further steps are obviously consequences of well-established premises. A plebiscite is a well-known and well-defined method of international law. By placing the plebiscite under the direction of the United Nations, the parties reinforced the guarantees of its fair and impartial implementation. The acceptance of the two resolutions of the United Nations Commission not only curtailed the discretion of the opposing sides, but also accrued a right to the people of Jammu and Kashmir, namely, the right to decide by vote, under pre-established conditions, their choice of sovereignty.

In international law a distinction is commonly made between matters of a political nature which renders them unfit for a judicial decision and matters of a juridical nature which can better be disposed of by a judicial procedure. Hence the differentiation between "political" or "non-justiciable questions and "legal" or "justiciable" questions. The judicial decisions have an obligatory character. Once the procedure is commenced, the parties are bound to accept the forthcoming decision as final. This is the reason why States usually refrain from submitting a political question to the decision of a judicial body. When the dispute is of a judicial character, th risk of arbitrariness involved is greatly reduced, since the judicial body is under obligation to respect existing rights. In the sphere of political disputes, however this guarantee does not exist, and the powers of the judicial body become discretionary. Difficulty has been found in establishing a practical test for distinguishing "justiciable" from "non-justiciable" issues. But article 38 of the Hague Convention of 1907 establishes a widely accepted criterion, namely, the questions relating to the interpretation or application of international agreements are of a justiciable character and should be submitted to the decision of judicial bodies.

This line of thought has led me to the conclusion that the disputed points relating to the interpretation and application of the resolutions of the United Nations Commission

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for India and Pakistan of August 1948 and January 1949 are of a juridical nature and, as such, justiciable under the terms of the Hague Convention of 1899 and 1907. Since the Governments of India and Pakistan have agreed to decide by a plebiscite the accession of the Jammu and Kashmir State, any question arising out of the implementation of the plebiscite under the terms of the two resolutions comes well under the definition of "justiciable dispute". The conditions set forth in the resolutions of the United Nations Commission for India and Pakistan for the implementation of the plebiscite and whatever additional measures might, in the view of the United Nations representative, be found necessary, are not of a nature of expose the parties to the risks of a discretionary decision.

On the strength of my conviction about the justiciable nature of the dispute in its present phase, I was induced to make a conciliatory effort designed to bridge the differences between the two parties. It was to this effort that reference was made at the preceding meeting by Sir Gladwyn Jebb. During my conversations with Sir Benegal Rau and Sir Mohammad Zafrulla Khan, I found both representatives equally anxious to arrive at a fair and equitable settlement of the Kashmir question. Their sincerity, earnestness and profound wisdom were a constant source of inspiration to me in my endeavour. In the course of our conversations I submitted to the representatives of India and Pakistan a formula which, to my mind, would offer the best safeguard of impartially and fairness for the adjudication of the points in dispute. That formula reads as follows :

> "In the event of their discussion with the United Nations representatives failing in his opinion to result in full agreement, the parties agree to accept arbitration on all outstanding differences arising from the interpretation of the resolutions of the United Nations Commission for India and Pakistan and as formulated by the United Nations representative, such arbitration to be carried out by a panel of representative and one arbitrators consisting of the

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United Nations arbitrator nominated by India and Pakistan each."

To that suggestion the representative of Pakistan gave the full support of his government. Although the representative of India did not object to arbitration ; be felt that the issues which had already been settled by the resolutions of August 1948 and January 1949 should be excluded from the subject matter of arbitration. Among these issues, the representative of India included the question of demilitarization. But, in spite of that opinion, Sir Benegal Rau kindly offered to submit my suggestion to his Government. Unfortunately, the Government of India did not find it possible to acquiesce in that suggestion, giving as a reason for refusal not only the fact that it could not agree to reopen issues which had already been closed by the two Commission resolutions, but also the fact that those issues affected national security, which the Indian Government could not agree to arbitrate.

I still nourish the hope that the Indian Government will reconsider its decision. There is no other way of resolving the existing impasse between India and Pakistan on the question of Kashmir than by having recourse to arbitration. It is in that hope that the Brazilian delegation supports the revised joint draft resolution submitted by the representatives of the United Kingdom and the United States on 21 March. In our opinion, that draft resolution provides an appropriate basis for the definite settlement of the Kashmir problem. Its terms cover a sufficiently wide scope to flow for the examination of many possibilities of agreement between the two Governments. It gives due solution to the recommendations set forth by Sir Owen Dixon in his comprehensive report to the Security Council and seeks to circumvent difficulties similar to those which have in the past prevented a settlement of the dispute.

The Anglo-American draft resolution embodies certain principles of international law to which Brazil has unswervingly adhered and which fall within the spirit and letter of the Charter. I refer specifically to the spirit of self-determination of peoples which accounts for the provision for a United Nations-sponsored plebiscite whereby the people of Jammu

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and Kashmir may choose their political status. A provision is also included in the joint draft resolution to decide by arbitration all outstanding points of difference in regard to the interpretation and implementation of the resolutions of August 1948 and January 1949.

The principle of arbitration is particularly appealing to my Government. The Brazilian Constitution specifically provides for obligatory recourse to arbitration. It was also by arbitration that Brazil was able to settle some of the most difficult disputes which arose during the delimitation and demacration of its boundaries.

It is therefore with the deepest conviction that, speaking on behalf of a country which has invariably sought amicable and juridical solutions of all its international disputes, I urge the Governments of India and Pakistan, with which my country maintains the most friendly relations and whose progress and well-being the Brazilians earnestly desire, to accept the peaceful settlement of the Kashmir question along the lines of the draft resolution under consideration. By doing so, they will contribute greatly not only to the prosperity of their own peoples and the people of Kashmir, but also to the peace and security of South Asia. There is only one road to happiness for individuals as well as for nations, namely, acting justly. Injustice and arbitrationess destroy the inner drive and creative forces of man.

62. Text of the Speech made by Mr. Sarper (Turkey) in the Security Council Meeting No. 538 held on 29 March, 1951

The history of the India-Pakistan question, which has been on the agenda of the Security Council for over three years, is well known to all of us. In the light of its development through several phases and of the actions taken by the Security Council in each phase, we have given careful thought to the question. We have also listened with great care to the views and explanations submitted to the Council by both parties.

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In our study of the question and in determining our attitude towards it, we have been guided by certain basic considerations. First of all, we are deeply disturbed and concerned because of the existence of such a dispute between two sister nations, to both of which we are bound by sincerities of friendship and for both of which we have the greatest admiration. We are further concerned by the fact that such a situation should exist at this particular juncture in world affairs. The gravity of general world conditions is obvious, and it is unnecessary for us to comment upon it at this time.

Amidst these unsettled world conditions it appears to us—and we are certain that both parties to the dispute themselves will agree—that the primary interest of the two great nations is common, namely, maintenance of peace, security and stability in the sub-continent and in the world as a whole. It is, therefore, essential that every effort should be made in order to find an amicable solution to this problem. The main responsibility here, of course, falls upon the parties themselves, and we are sure that they will continue their endeavours until a satisfactory and final solution to this question can be found, bearing in mind the extreme gravity of the general situation.

The present dispute between India and Pakistan over the State of Jammu and Kashmir is a factor of instability in the sub-continent and, as Sir Owen Dixon said in his remarkable report, "Except by agreement between them there is no means of settling it". On the other hand, it is gratifying to note that, as far as principle is concerned, no difference exists between the two parties. Both of them agree that the question of the future of Jammu and Kashmir should be settled in accordance with the will of the people expressed through a fair and impartial plebiscite.

Moreover, in accepting the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, they have further agreed upon the main lines of a course of action to bring about the plebiscite.

Thus, in our view, the scope of the dispute seems to have narrowed down to points on methods and procedures, such as

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the withdrawal or disbanding of the armed forces at present in the area prior to the holding of the plebiscite, and the control over the administration of the disputed territory during the plebiscite. Since agreement has been reached on principle, we believe that the differing views of the parties on these matters of procedure cannot be irreconcilable. If efforts are continued and redoubled both by the parties themselves and by this Council, which bears the primary responsibility for the maintenance of peace and security, we believe that a solution can be found to this question which will be just and satisfactory to both sides. Such, I am certain, is our common objective.

With these considerations constantly in our mind, as have made a thorough study of the joint draft resolution now before us.

The draft, in its preamble, contains certain observations and certain statements of principle. The first of these is that the future of the State of Jammu and Kashmir should be decided through a free and impartial plebiscite conductd under the auspices of the United Nations. I have already commented upon this briefly. We are, I think, all agreed that such a plebiscite is the only way to bring about a just solution of the question of Jammu and Kashmir. Once we have accepted this principle, we must also admit that such measures as convening a constituent assembly which will not be representative of the whole territory, in order to decide the future of the State, would not be in harmony with this principle.

The draft also mentions in the preamble that the difference between the two parties has been narrowed down to two main points. Since the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949 have already been agreed to by both parties, the next step in our efforts to find a peaceful solution to this problem should obviously be to move along the lines set forth in those resolutions and try to obtain the agreement of the parties upon details and procedures as well. Thus, the operative part of the draft resolution concentrates on this point. Naturally the most important task would be to arrange and to effect the demilitarization of the area, as

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already agreed to the two parties in principle. This would be preliminary condition for ensuring both the stability of the area and the realization of the final objective that the plebiscite is held under fair and impartial conditions and without undue pressure or influence—deliberate or unintentional—on behalf of anybody.

Therefore, the main function of the United Nations representative who is to be appointed under this resolution would be to effect the demilitarization of Jammu and Kashmir on the basis of the general lines already agreed to.

An important paragraph of the draft resolution, in our view, is paragraph 6, making it possible to resort to arbitration on points of disagreement. It should be mentioned that the arbitration forseen in this paragraph is not an over-all arbitration for the whole of the question of Kashmir, since, as we have repeatedly pointed out, both parties have agreed on the general principle. Consequently, paragraph 6 covers only minor points of disagreement which may arise during the negotiations. It must be admitted that the only way for deciding such minor issues on which the parties may not agree, would be to submit them to impartial arbitration.

As I have tried to indicate briefly, we are substantially in agreement with the general lines of the joint draft resolution. The action taken by the Security Council during the last three years in regard to the question of Jammu and Kashmir has been by no means fruitless. May I recall that when the question came to the Council at the beginning of 1948, actual fighting was going on between the parties It was through the intervention of the Security Council that a cease-fire was obtained and the hostilities were stopped. It was due to the action of the Council and the efforts of its Commission for India and Pakistan that the parties agreed to the principle of deciding the future of the State of Jammu and Kashmir by means of a free and imparitiat plebiscite. Finally, the mission of Sir Owen Dixon made a beginning towards a lasting solution of the dispute. The present joint draft resolution is a further attempt in the same direction, and we sincerely

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believe it can and will produce the desired results. Particularly after revision, we think it goes a long way toward meeting the points made in this Council by the two parties at the beginning of our present debate.

It is with these considerations and convictions in mind that we support the draft resolution, while reserving our attitude towards any point which may be raised or any suggestions or amendments which may be put forward during the further deliberations of the Security Council on this question. Our sole objective is to bring about a just and amicable solution of this dispute. We are also aware that such a solution can be brought about only if the parties themselves adopt a just, reasonable and realistic attitude towards this resolution. We have no doubt they will.

63. Text of the Speech made by the President Mr. D. Von Balluseck as representative of the Netherland in the Security Council Meeting No. 538 held on 29 March, 1951

There are no more speakers on my list. If none of the other representatives wishes to speak for the moment, I should like to make a few remarks in my capacity as representative of the NETHERLANDS.

Some of the things I am going to say have been mentioned before by other speakers. That is hardly surprising, taking into consideration that we have been debating this problem for more than three years. Most of what could be said has been said. Yet, some things, I think, should be repeated since they contain components of what may become agreement.

The draft resolution in its revised form, jointly presented by the United Kingdom and the United States, needs and deserves the most careful study, since it represents a new and, we think, fair effort to find in equitable and peaceful solution

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for a problem which, if left unsolved, might seriously further endanger peace and stability in a vital part of our already badly harassed world. The Security Council, having due regard to its primary responsibility for the maintenance of international peace and security must endeavour to prevent that danger. Too much time has already passed since the question which still awaits its conclusive solution was placed before the Council. We must therefore earnestly hope that this time a speedy settlement will be reached and we must, in our opinion, exame the new suggested ways and means in the light of that need and, of course, of fairness and justice to the parties, but above all to the people of Jammu and Kashmir themselve.

I need not dwell extensively on the history of the case nor on the various stages through which this intricate problem has passed since 1948. There has been disagreement between the parties directly concerned on many of the points at issue. But as the draft resolution is before us points out, there has also been substantial agreement on some very fundamental principles. We know that these principles are ; that the accession of the State Jammu and Kashmir either to India or to Pakistan shall be decided through the democratic method of a free and impartial plebiscite, conducted under the auspices of the United Nations, after the cease-fire and truce arrangements have been carried out. That, in our opinion, is and must remain the basis for a just and equitable solution of the problem now under consideration.

With the assistance of the United Nations, certain very important achievements have already been factually attained. I refer to the effective cease-fire arrangement which has withstood all tensions during more than two years. The Governments of the two countries deserve great credit for having been able, often under great stress, to achieve the continuance of this agreement without which any further development of a just and peaceful solution would be fatally jeopardized.

Furthermore there has been acceptance by both parties of the principles to which I have just referred. The revised draft resolution submitted by the United Kingdom and the

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United States rightly, in our opinion, starts out by again laying stress on that point. We are then, we may earnestly hope, in the presence of a common and uncontested desire that the future of the territory and the population which are involved in the dispute should be decided through the free exercise of the right of self-determination by the people most directly concerned. The Netherlands Government has always considered the principle of self-determination as being of primary importance for human happiness and the peace of the world. It continues to believe in that principle, now that the Council is a again confronted with the Jammu and Kashmir case.

My country has in the recent past based its own policy in matters vital to our fundamental national interests upon this same important principle, even though it required from us far-reaching sacrifices, and it is this basic conception of freedom and self-determination of peoples which will continue to guide my Government also in matters where we have no other interest than the sincere wish to contribute to the well-being of the world, and in this particular case, to the well-being of friendly States with which we maintain cordial and mutually beneficial relations.

If the joint draft resolution points to an essential aspect of the right of self-determination, it reaffirms, in doing so, the fundamental freedoms of which the Charter of the United Nations constantly reminds us, and for which we have all assumed a great moral responsibility.

The basic agreement between the parties and the organs of the United Nations, that is to say the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, constitute a very definite framework which, however, must now be definitely filled in. The resolutions contain principles which have been accepted by both parties. In accepting them both parties stand committed to their implementation and application. The cease-fire was applied and implemented. The next step should be the formulation of a truce agreement. For this also the

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principles have been laid down and accepted. They indicate ways and means for a process of demilitarization of the State of Jammu and Kashmir in successive stages by the two contesting parties. They leave the final disposal of remaining armed forces—that is to say, after the truce agreement is implemented—to the representative of the United Nation in consultation with the Indian Government on the one side of the cease-fire line and the local authorities on the other side.

On the basis of the foregoing principles the truce agreement should be formulated. Once that is done, accepted and implemented, the plebiscite can then be organized and held. The demilitarization contained in the truce agreement will in itself constitute one of the most important prerequisites for the freedom and fairness of the plebiscite itself. But we cannot proceed without the truce agreement. That must be brought about and formulated first of all. So far this has failed to materialize, and this failure constitutes one of the major stumbling blocks in the path towards a solution. The draft resolution now before us, rightly we think, has placed the task of removing this stumbling block in the hands of a new United Nations representative to be appointed. If he should fail on account of disagreement between the parties in regard to the interpretation and execution of the principles to which India and Pakistan stand committed then, according to the draft resolution, the points at issue should be submitted to arbitration, which the parties are now called upon to accept in operative paragraph 6. In that way the truce agreement could and should finally be effected, that is to say, the demilitarization, which is indispensable to the free exercise of the right of self-determination of and by the people of the State of Jammu and Kashmir.

From all this it is clear that the truce agreement, in other words, the implementation and application of the principles which have already been accepted, is an essential element of the problem with which we are dealing.

The draft resolution now before us endeavours once again to break the deadlock, first by giving wider powers to

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the United Nations representative, and second by formally introducing the element of arbitration, now that it has become evident that other peaceful means have been unable to produce adequate results.

Surely it would have been far preferable for the two parties to have reached an agreement between themselves. However, we cannot but recognize the lesson which three years of experience have taught us. This lesson is that a basic difference of approach prevents the parties, if left to themselves, from composing their views.

Indeed, there have been serious difficulties which offered to be almost impossible to overcome. There are conflicting conceptions in regard to the justification of the presence of the armed forces of the parties in dispute on the territory of the State of Jammu and Kashmir. There are objections to suggested ways and means for the synchronization of the various stages in the process of demilitarization. There are fears on both sides regarding the security of the bordering States and for the freedom of expression of the population of Jammu and Kashmir itself. These solicitudes may perhaps wholly or in part be explained in the light of the history and the evolution of the case. But once the right to self-determination for the people of the State of Jammu and Kashmir is—as it has been—recognized, once it is clearly accepted by the parties in dispute—as it has been—that they have no right to impose anything upon these people against their wishes and that therefore these wishes must prevail over the wishes and claims of the bordering States, it must be possible to find a procedure which will create the most favourable conditions for a fair expression of the will of the people, who want to make their choice free from any kind of fear or intimidation.

The issue should, in the last analysis, be decided by the people of the State of Jammu and Kashmir and not by the rulers heretofore placed over them. The choice of affiliation to one nation or another is so fundamental in its nature and consequences that only the people themselves can and ought to make that choice. It stands to reason that such a choice should be freely made, untrammeled by biased pressure from

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interested outside parties. No prearranged political organization in part of the State concerned, set up under the auspices of authorities which have already made their choice, should interfere with this complete freedom of choice. For that reason my Government is inclined to agree with what was said in substance by the representatives of the United Kingdom and the United States on the subject of the Kashmir National Conference. For the same reason we approve the relevant paragraphs in the preamble of the draft resolution now before us, as well as operative paragraph 8.

I should like to add a few words on the matter of arbitration. In a case like the one with which we are dealing, this would seem to be the logical procedure, since it concerns questions which, as the representative of Brazil has so ably explained, might well be considered as coming within the widely acknowledged justiciable sphere where arbitration would be fully justified. Two parties have agreed on certain principles for the solution of a problem. They stand comitted to these principles, but they disagree on interpretation and implementation. Also they are both Members of the United Nations. They have subscribed to the Charter which stipulates in Article 2, paragraph 3 that "all Members shall settle their international disputes by peaceful means" and which in Article 33 commits them first of all to seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, etc. A number of these means have now been tried during the last three years without success. Arbitration seems therefore to be in order, the more so since it would not determine the final solution, but only the interpretation of such already agreed principles dealing with a preliminary stage of the solution as would give rise to differences of opinion and thereby block any further action. We therefore would most earnestly urge the parties, notwithstanding what has been said this afternoon by the representative of India, to accept arbitration as a means to pave the way towards an ultimate settlement.

For too long has action towards an equitable solution of the problem of the accession of the State of Jammu and Kash-

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mir to one or the other of its great neighbouring States of the sub-continent been blocked. This delay has given rise to dangerous tensions and sometimes to irresponsible, emotional campaigns. Yet in part I, section E of the resolution of 13 August 1948 the Governments of India and Pakistan agreed "to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations." Tension prolonged too far may, however, frustrate the most serious efforts of this nature.

The Security Council therefore must now live up to its responsibilities for the maintenance of peace and security. In devising the means which are to be conducive to a just settlement, the rights and wishes of the people of Jammu and Kashmir deserve first consideration. My Government believes that the interests of the people of Jammu and Kashmir, as well as the peace between the great nations of India and Pakistan, will be well served by a procedure such as that proposed in the revised draft resolution now presented to us by the United Kingdom and the United States. For those reasons the Netherlands Government has instructed me to support this draft resolution, with the fervent hope that it may succeed in giving the people of Jammu and Kashmir what they want, and that it may bridge the gap which now separates two countries, whose constructive co-operation and good neighbour policy could contribute so much to the peace of the world.

64. Text of the Speech made by Mr. Quevedo (Ecuador) in the Security Council Meeting No. 539 held on 30 March, 1951

The problem of India and Pakistan in its present stage and the revised joint draft resolution before us, should be considered at this time in the light of various factors, particularly the following :

The first is the duty and the position of the Security Council in this matter. The Council is considered primarily to seek a peaceful solution of disputes and to try to see that the parties reach agreement, and I think no one can deny

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that we have been patiently seeking, and are still seeking to obtain, the voluntary agreement of the parties. It is in this light that I think the draft resolution under discussion should be considered. We are doing our duty if we proceed as we are proceeding now.

If there is any criticism to be made of the draft resolution, I think it is that its operative part, seeking not to depart from the area of agreement already reached by the parties so that implementation may be achieved, is not explicit enough in its statement of the requirements which seem in the present situation to be just, necessary, and indispensable to the holding of a truly free and impartial plebiscite to express the desire of the people of Jammu and Kashmir.

It is the belief of my delegation that the Security Council could not have acted more honourably, perseveringly and considerately towards two distinguished Members of the United Nations who are temporarily divided by this complex problem. The draft resolution is one more proof of the impartiality with which the authors have tried to lay the foundation for a just and peaceful settlement. If, once the resolution has been approved, fresh difficulties should arise in respect of implementation, they will not result from the Council's action, and will serve only to reveal the true nature of the obstacles to settlement more clearly.

The second point to which I wish to refer, although it has been repeatedly emphasized, is the following : inasmuch as India and Pakistan have agreed that the final status of Jammu and Kashmir should be decided by a free and impartial plebiscite, that must be our point of departure and the legal and political basis for the Council's action. Upon this basis, in our opinion, it can only be inferred that : (1) in the present circumstances, the constituent assembly of Jammu and Kashmir cannot be considered as representing the people as a whole or as a free manifestation of the people's will, and the decisions of such an assembly can neither change nor deprive of their effect the international undertakings entered into by India and Pakistan in respect of the plebiscite ; (2) a free and impartial plebiscite presupposes that the electors shall be free

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from pressure, threats, intimidation or compulsion in any form by the local authorities, of by military or police forces (whichever they are called) in the territory during the preparation and holding of the plebiscite ; it is therefore our opinion that the United Nations and the parties concerned must provide means whereby the authorities and forces to be set up in the territory where the plebiscite is to be held should be of such size and composition, and should operate and be placed in such a manner, that neither their action nor their presence can affect the genuine and free conduct of the plebiscite either morally, politically or legally ; (3) in view of Articles 33 and 36 of the Charter, and if there is no agreement between the parties, the recommendation for arbitration in paragraph 6 of the draft is both relevant and wise ; limited as it is in paragraph 5 to the differences of opinion relating to the interpretation and implementation of the resolutions of 13 August 1948 and 5 January 1949 [*S/1100, S/1196*]. My delegation sees no reason why it should cause prejudice to either of the parties.

The last point which I should like to make is that the dispute should be considered not only in the light of our duty - which is to find some way of solving the problem in conformity with the United Nations Charter—but also with a deep interest and a lively hope that, once the dispute has been settled, India and Pakistan, two great countries worthy of our admiration for many reasons, may enter upon a path of friendly and progressive co operation which in the end will benefit not only their respective peoples but also, in view of increasing international interdependence, all the peoples of the world.

It is one of the characteristics of the United Nations that, owing to its structure, the representatives of a State—however distant it may be from the area in which a dispute has arisen or however little concerned with that dispute and even when, as is the case with my own country in the matter now before us, it has no direct interest in the actual problem—must inevitably think over the problem, study it and take

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an interest in reaching a solution in conformity with the constitutional principles governing the United Nations.

In this instance, for example, both my country and my delegation are moved only by a sincere and equal friendship for both India and Pakistan. We admire their ancient civilizations and the creative effort which each of them is making to build up and increase them. We can therefore only express a sincere wish that India and Pakistan, inspired by a true will to serve international peace, will magnanimously support the task begun by the Security Council and each open the way towards a peaceful settlement to the other.

In expressing this hope we can only think that geography, economy and the position held in the world by the great sub-continent in which India and Pakistan are situated, will show that friendly co-operation will pay a thousandfold any sacrifice which either may be prepared to make to restore full harmony, and that the harmony will wield a decisive influence on the maintenance of general peace.

My delegation will therefore vote for the revised draft resolution.

65. Text of the Speech made by Mr. Lacoste (France) in the Security Council Meeting No. 539 held on 30 March, 1951

The French delegation has listened with the utmost attention to the discussion which has once again taken place in the Council on the Kashmir question. It did not think it had much to learn about the basic facts of a situation with which the Council has been only too familiar in the three years during which the item has been on its agenda. In such a serious matter, however, the distressing and dangerously critical nature of which is shown by the fact that it persists in spite of so many efforts to settle it, care must be taken to avoid the risk of over-confidence, and untiring efforts must be made to hear the parties to the dispute and carefully to analyse their statements so long as they think they have some fresh light to throw on the points at issue. In this respect,

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however, it would appear that ample justice has been done to the two eloquent spokesmen for the opposing sides, and that both of them have had full opportunity to develop their cases and make their replies.

My delegation has sought in vain to find, in the facts the parties have adduced or the arguments they have repeated, any such new factor as would convince it of the need to reconsider the positions it has taken before.

Year by year the eloquence and skill of the representatives of India and Pakistan seem to raise new aspects of the subject. However, a calm study of their speeches and of the practical results they have each year achieved, leads to the dual conclusion that, in the realm of ideas the Council has had no occasion to change its position since the decisions of 13 August 1948 and 5 January 1949 were taken, and that, so far as the facts are concerned, there has unfortunately been no real progress towards a settlement of the dispute.

Under the resolutions I have just mentioned—resolutions which marked development of paramount importance in this case because they won the support of both parties—the Council proclaimed the need to settle by a just and impartial plebiscite the problem of the accession of Kashmir to one or other of the two States successors to the Indian Empire.

The unanimous agreement reached on that principle should have made it possible harmoniously and quickly to settle a problem which is a serious threat to peace in an important region of the world. No such action has been taken, however. That is not the Council's fault, nor the fault of the United Nations representative, nor even, perhaps, the fault of either or both of the two parties. It is rather due to the all too usual combination of things which so frequently causes such a long interval in space and time between the proclamation of a principle unanimously admitted and its effective application the world of facts.

Everyone here is aware of the difficulties which Sir Owen Dixon encountered, and we can only regret that the efforts he so generously made should finally have proved vain. The fact remains that the holding of a really just and impartial

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plebiscite—such as the two parties expressly wanted it to be and have undertaken to see that it should be, so far as it is in their power to do so—requires the previous fulfilment of one condition That is that the territory, the inhabitants of which are called upon to vote, should be freed from any improper influence, such as that inevitably involved in the presence of occupation troops from outside belonging to one or other of the parties concerned. The plebiscite must therefore be preceded by the demilitarization of Jammu and Kashmir. It is surely not an impossible task—it should not even be a very difficult task—to draw up an equitable plan of demilitarization in accordance with the principles already accepted by the parties concerned. And two parties of good faith—and we do not doubt the good faith of the parties in this case—should be able to agree on such a plan of demilitarization.

After two years, the failure of Sir Owen Dixon's mission and of all attempts to facilitate a direct arrangement, between India and Pakistan have confronted the Council, much against its will, with responsibilities which it thought it had finally fulfilled, and brought it back to the point where it was on 5 January 1949.

We should be grateful to the representatives of the United Kingdom and the United States for their painstaking efforts during the past few weeks to reconcile the points of view and devise a solution acceptable to everyone. In its revised form, the joint draft resolution they have submitted to us is simplicity itself. Starting from the resolutions of 13 August 1948 and 5 January 1949—to which we must always return because they won the express agreement of both India and Pakistan—it restates the need for a plebiscite, endeavours to make a plebiscite possible by trying to solve the previous problem of demilitarization, and provides that to that end a representative of the United Nations shall proceed to effect demilitarization after consultation with the parties. If the parties are unable to reach agreement on the plan submitted to them, provision is made for arbitration, and, to make assurance doubly sure, arbitration is to be carried out by an arbitrator or panel of

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arbitrators appointed, not by a political body, but by the President of the International Court of Justice.

That is the core of the draft resolution. For sometime there has been no question of anything but setting to motion the implementation of resolutions already accepted by everyone. The methods the draft resolution proposes for that purpose should raise no objections from any Member of the United Nations consists of its duty and sincerely anxious to discharge it. As a recent meeting, Sir Gladwyn Jebb recalled [*537th meeting*] that when we signed the San Francisco Charter, we all subscribed to certain fundamental principles and that the principle of most importance, the one most vital in the world today both for the inter-national community and for each of its Members, was that which made it incumbent upon us to find a peaceful solution for all our disputes. It is enough to recall Article 33, paragraph 1 of the Charter, which reads :

> "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, concilition, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice".

That text is undoubtedly relevant to our task. No one here can doubt that the two parties concerned are fully aware of their responsibilities to the United Nations. They have already given proof of their readiness to discharge them. They have accepted the cease-fire the Council ordered in Kashmir, and they have accepted the holding of a free and impartial plebiscite for the final settlement of their dispute.

That is the heart of the matter. The rest, it must be said, is only incidental. If each party clings to details of implementation, reasoning will be carried away by sentiment and national pride, and the irritation caused by the fact that the controversy has gone on too long will lead the party to discover, persuade itself and demonstrate that every detail

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jeopardizes the essential principle. Such a discussion might be prolonged, so to speak, to infinity. But that is just where the parties to a dispute which has already dragged on for so long and which, as Sir Gladwyn Jebb has so rightly observed, is not of a kind to be cured or alleviated by time, must show an international spirit, loftiness of views, and wisdom.

The governments of States like India and Pakistan owe it to the international community, and to themselves, to demonstrate their political maturity on this occasion. The draft resolution which the United Kingdom and the United States submitted to us does not ask the parties to sacrifice principles, ideas or even interests. It does no more than ask them to apply to the settlement of their dispute, in stages of which they have already recognized the need, classical methods, approved by the founders of our law, tried by experience, incorporated in the Charter and recommended for three years by the Council as the best means—if not, in the absence of direct agreement, the only means—of escaping from what seems to us to be assuming more and more the appearance of a dangerous impasse.

The governments of these two States, both of which for various reasons are of very great physical and moral importance in contemporary international society, cannot fail to understand what serious responsibilities they are incurring, in the present circumstances, towards their respective peoples and towards that international society.

In supporting the Anglo-American revised draft resolution, my delegation has the feeling, born of mature reflection, that it is violating no one's rights, and that it is acting both in the spirit and within the limits of justice. It wishes to convey an assurance in this sense to the representatives of those two great States, and it ardently desires that by a happy solution of this painful case they may find the peace they need to enable them to continue their progressive work.

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66. Text of the Speech made by Mr. Hsia (China) in the Security Council Meeting No. 539 held on 30 March, 1951

My delegation has listened with care to the statements made by the representatives of India and Pakistan at the meetings of the Security Council on 1, 6, 7 and 9 March [*533rd, 534th, 535th, 536th meetings*], and to the statement of Sir Benegal Rau yesterday afternoon [*538th meeting*]. I note that both Sir Benegal Rau and Sir Mohammad Zafrulla Khan devoted considerable portions of their statements to the history of the case, particularly to the events that occurred in October 1947. It is certainly not the desire of my delegation to pronounce judgment on any phase of the historical background of the question. My only desire is to help to find a peaceful and satisfactory solution of the dispute between the two States, which ought to be good neighbours and the best of friends.

The revised joint draft resolution introduced on 21 March by the delegations of the United Kingdom and the United States is, in the opinion of my delegation, in perfect harmony with the spirit and temper in which the Security Council has endeavoured to settle this dispute. The draft resolution at its outset reminds the parties that they have accepted the provisions of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, and have reaffirmed their desire that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations"—that is the central feature of the draft resolution, and all other features are subordinate or supplementary and are designed to bring about that free and impartial plebiscite.

The remarkable thing about the whole dispute is the undoubted fact that the two parties and the Security Council are all agreed on the principle of a free and impartial plebiscite. It is true that certain differences that arose have prevented up to the present time a solution of the Kashmir question, but these differences relate not to the principle but to the procedure

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for conducting a free and impartial plebiscite.

As I have said, differences that have arisen between the two parties relate not to the principle but in the procedure to be adopted. I would humbly submit that if such differences cannot be resolved by direct negotiation, they should be settled by third parties. Fortunately, in this case, the vast majority of the Members of the United Nations and of the Security Council are friendly to both India and Pakistan, and have no direct interest in the eventual disposal of the State of Jammu and Kashmir. No matter how the two parties object to the various proposals more to them by this Council, by the Commission, and more recently for our representative, neither India nor Pakistan has accused us of bias or partially. In fact, I think the Council, the United Nations Commission for India and Pakistan, and the United Nations representative have not been extraordinarly fair and patient.

The draft resolution before us contemplates arbitration upon all outstanding points of difference by an arbitrator or a panel of arbitrators to be appointed by the President of the International Court of Justice in consultation with the parties. This is the proposed machinery in case differences in regard to procedure cannot be settled in the consultations between the United Nations representative and the representatives of India and Pakistan. The scheme of arbitration so provided has every guarantee of fairness and impartiality.

The representative of India has raised objections to the provisions of paragraph 6 of the draft resolution which refers to arbitration [*538th meeting*]. With all due respect to Sir Benegal Rau and to what he said yesterday afternoon, I still maintain the view, which is also held by the representatives of the United Kingdom, the United States, Brazil, the Netherlands, Ecuador, France and others, that this proposal is a key provision in the draft resolution in the present circumstances.

My delegation supports the main features of the draft resolution. I hope that the two parties, after further consideration, will accept the proposed resolution and will cooperate heartily with the United Nations representative in

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effecting the demilitarization of the State of Jammu and Kashmir. The problem of demilitarization has always bulked large in the discussion of the procedure of the plebiscite. Sir Owen Dixon's recommendation [*S/1791*] differs somewhat from the recommendation of Council and of the Commission. Sir Benegal Rau took pains to point out the differences. I concede that these differences are real. It may well be that a free and fair plebiscite does not requ re a total demilitarization and that armed forces could be so placed as to exercise no effect or very little effect upon the results of the plebiscite. For those reasons, my delegation will not insist upon total demilitarization and is prepared to support the United States-United Kingdom draft resolution.

There is one new development in the question of Kashmir, and that is the constituent assembly referred to in the third and fifth paragraphs of the preamble of the draft resolution. My delegation is very apprehensive in this regard. Such a constituent assembly may adopt a resolution declaring the accession of the State of Jammu and Kashmir to India, or the assembly may incorporate in the constitution an article to that effect. In either form, such an act would not be in harmony with the resolution adopted by this Council or with the resolutions of the Commission. Sir Benegal Rau's statements on this point, while moderate, are unfortunately not quite definite. Nevertheless. I deduce from his statement the conclusion that no such resolution or constitutional article is contemplated, and I hope that my deduction is correct. However, such a constituent assembly might prejudice the issue in other ways. In the first place, a constitution adopted before the plebiscite would have the tendency, or at least the appearance of having the tendency, of making a formal definitive relationship of Kashmir to India. In the second place, the constitutional provisions which the constituent assembly might adopt might dovetail the State political structure of Kashmir so closely with the State political structure of Kashmir so closely with the State political structure of India as to signify definitive accession. Such tendencies or appearances may

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arouse suspicions and passions which may make the solution of the problem more difficult than it is now.

Pending the solution of the problem, this Council has a right to expect both parties not to take measures which would further complicate the question. The amended draft resolution is certainly in harmony with the Charter and with the principles of peace and friendly international relations which I sincerely hope will be acceptable to the leaders of India and Pakistan. The question is so grave and so complicated that nobody should favour undue haste. On the other hand, the very gravity of the situation would also make it unwise to indulge in any unnecessary delay. The main features of the draft resolution are so obviously right that the Council must at least make a serious effort to implement them.

67. Text of the Speech made by Mr. Bebler (Yugoslavia) in the Security Council Meeting No. 539 held on 30 March, 1951

I should like to explain briefly my delegation's general attitude regarding the revised draft resolution of the United Kingdom and United States delegations on the question of Kashmir.

My country is, of course, graphically speaking, denote from the actual scene of the dispute, which has resolved into one of the most complex problems conflicting the Security Council. We are none the less only aware of the extent to which the continuance of this problem not only affects the relations between the Member States and trammels the normal economic and cultural development of four million Kashmiris, but make places the peace and security of a sensitive area the world in serious jeopardy. We therefore share wholeheartedly the desire repeatedly expressed here but some further advance should now be made towards solution of the problem.

We have listened with the greatest attention to all the views expressed both by the parties themselves and the other

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representatives seated round this table. We have also endeavoured to study the factual background of the case and, in particular, the various efforts made so far to reach a settlement, and this has brought us to certain general conclusions.

The problem as we see it presents three salient features. The first is the existence of an agreement between the parties on the general principle of a settlement. The second is the persistent differences on a number of points connected with the implementation of that general principle. The third feature—and one that is frequently overlooked—is the fact that agreement has proved possible on such important points as, suspension of arms, the establishment of a formal cease-fire and the demarcation of a cease-fire line, which are after expressed prerequisites of any peaceful settlement, and this agreement has been achieved by means of direct negotiations between the parties, with a varying measure of United Nations assistance.

This appears to us to point to the course the Council should follow in its endeavour to do away with the differences now dividing the parties. What we should try to do, in the view of my delegation, is to assist the parties gradually to narrow, in direct contact and by their own efforts, the areas of disagreement between them and thus move towards a settlement which obviously is in the interest of them both. Such a course—a course, incidentally, to which Sir Owen Dixon's preferences went at the close of his painstaking efforts to reach a settlement—appears to us to be not only, generally speaking, the soundest way of resolving matters of this nature but also, in view of present circumstances, the only really useful contribution we can make towards the solution of this vexed problem.

There is an alternative course, naturally. Such a course would consist in attempting to reach a solution for the parties rather than in helping them to achieve it themselves, of imposing upon the parties—or upon one of them—the actual mode of implementation of a settlement the principle of which they have already accepted. I feel that such a course would not merely in all probability prove futile, but might even impair what chances still remain of reaching an understanding

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on the yet unresolved issues and diminish rather than increase the prospects of an over-all settlement.

It is in the light of these considerations that my delegation has examined with the utmost care the draft resolution now before the Security Council, and more specially the latter half of its operative part. We regret that we have not been able altogether to escape the impression that the draft resolution inclines towards the second of the two courses described, without having fully explored the possibilities of the first course. I shall therefore have to abstain on the resolution.

68. Text of the Speech made by Mr. Gross (United States of America) in the Security Council Meeting No. 599 held on 30 March, 1951

The statements made yesterday and earlier this morning by my distinguished colleagues on the Security Council have been clear and extensive. I believe there is little I can add which might aid the Council in reaching a conclusion on the revised draft resolution submitted jointly by the United Kingdom and the United States. However, may I be permitted to address myself to one points raised by Sir Benegal Rau in the statement he made yesterday ?

The distinguished representative of India objects to the operative part of the draft resolution, because, as I understand it, he interprets paragraphs 3 and 6 of the draft resolution as giving to Pakistan rights of consultation which had not existed under the August 1948 resolution of the United Nations Commission for India and Pakistan. Sir Benegal, I believe, said that the draft resolution now before the Security Council reopened issues which had been settled by the August 1948 resolution ; that it sought to give Pakistan a voice in matters in which it had been denied any voice previously ; and that it sought to transfer to arbitrators the right to make decisions which previously had required the agreement of India. The Government of India, as I understand it, objects therefore to paragraph 6 of the draft resolution, calling for acceptance

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of arbitration on unresolved issues, as a violation of the agreed resolution of August 1948.

I can only say that the revised draft resolution submitted to the Security Council on 21 March would instruct the United Nations representative, after consulting the Governments of India and Pakistan, to effect demilitarization on the basis of the two agreed United Nations Commission resolutions. For this purpose, obviously, he must consult the Government of Pakistan as well as the Government of India in order to obtain their views. The very preamble to part II of the 13 August 1948 resolution says :

> "Simulaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in part I, both governments accept the following principles as the basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission."

The United Nations representative must be free to consult with the Government of Pakistan as well as India in working out the necessary details.

As we see it, the two United Nations Commission resolutions provide a framework which remains to be added in. These resolutions do not set forth a complete plan for accomplishing demilitarization and a plebiscite. The parties will have to develop and consider with the United Nations representative the details which fill out this framework, in order to honour their commitment to settle the issue of accession to India or Pakistan by a fair and impartial plebiscite under United Nations auspices. If the parties do not agree upon these details in filling out the framework established by the two United Nations Commission resolutions, it will be because the parties gave differing interpretations. In such a case there will be some way of resolving the dilemma, and we have suggested arbitration as that way.

It seems to us that the commitment of the parties and the legitimate interests of the Security Council in

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seeing and this dispute settled do not stop with these two resolution. They are not the end of the road. The sentiment of the Governments of both India and Pakistan is to settle the question of accession by a free and impartial plebiscite.

The representative of the Netherlands, Mr. Von Balluseck, pointed out very clearly yesterday that once the right of self-determination for the people of the State of Jammu and Kashmir is recognized, as it has been by both parties, then it must be possible to find a procedure which will enable the people of Kashmir to make their choice as to whether they will accede to India or to Pakistan. It seems to us that we are face to face with the necessity of finding a procedure which will enable the parties to carry out this basic and ultimate commitment. It is, as I have said before, to create the conditions whereby the people of Kashmir can vote without fear of intimidation upon the question of accession. If resort to arbitration of any matters which stand in the way of this result is objected to, how can the dangerous deadlock be broken ?

All members of the Security Council who have spoken have illuminated the spirit in which the resolution has been offered. That spirit springs from the sincere belief that the Security Council must aid the parties to advance toward a solution of the dispute by providing reasonable means through which issues which the parties cannot themselves resolve may be brought to a speedy and mutually acceptable solution.

The PRESIDENT : Before calling upon the last speaker, I wish to remind the Security Council that it is my intention to put the revised joint draft resolution now before us to the vote immediately after we have heard that speaker.

69. Text of the Speech made by Sir Gladwyn Jebb (United Kingdom) in the Security Council Meeting No. 539 held on 30 March, 1951

I think that I should follow the United States representative in dealing, very briefly, with one or two points which

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have arisen during the course of the debate on the revised draft resolution submitted on 21 March by the delegations of the United States and the United Kingdom. I certainly hope that that draft resolution will very soon come to the vote.

In the first place, I must say how glad the sponsors of the draft resolution have been—how glad I think we have all been—to note the general agreement among members of the Security Council that in our approach to this problem we should concentrate on one all-important principle, namely, that the future accession of the State of the Jammu and Kashmir should be settled by a United Nations plebiscite, held in conditions which will enable the inhabitants of the State to express their preference, free from improper influence by any of the authorities interested in the result. I am sure that members of the Security Council have been encouraged by one thing, at any rate : the reaffirmation by the representatives of the Governments of India and Pakistan of their own adherence to this principle.

As I believe the representative of the United States has already said, the President himself expressed this principle very clearly in the statement which he made in the Council yesterday. I should like, if I may, actually to quote his words, since they impressed me so much. He said [*538th meeting*] :

> "But once the right to self-determination for the people of the State of Jammu and Kashmir is—as it has been—recognized, once it is clearly accepted by the parties in dispute—as it has been—that they have no right to impose anything upon these people against their wishes, and that therefore these wishes must prevail over the wishes and claims of the bordering States, it must be possible to find a procedure which will create the most favourable conditions for a fair expression of the will of the people, who want to make their choice free from any kind of fear or intimidation."

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The President's eloquent words do, I think, contain the whole key to the problem, and our conviction of this fact has guided the representative of the United States and me in formulating our proposals.

In his statement to the Council yesterday, Sir Benegal Rau mentioned two aspects of these proposals which, in the view of his government, were not in accord either with the facts or with the agreements which the Commission embodied in its two resolutions of 13 August 1948 and 5 January 1949. If I may, I should like to comment briefly on these two aspects.

The first concerns the validity of the accession of the Maharaja of Kashmir. On this point I must say at once that I do not purpose to indulge in a sort of logomachy in which there is some risk that my learned friend with his great forensic ability might appear to emerge triumphant on points. I would hesitate to do that. But I doubt in any case that it will help to bring a solution of this dispute nearer if the Council were to retrace its steps behind the agreed principles and to take up legal issues concerning the validity of the Maharaja's accession. The Council has heard the arguments of both parties on this particular point. I think it is only too clear that any detailed consideration of the issues involved in this would only lead the Council into an examination of all the events leading up to the Maharaja's letter requesting accesstion. If this took charge, how could the Council escape from going on to consider parallel cases in which the question of accession may will at first sight appear to have been decided in accordance with entirely different principles? My argument, from the outset of the Council's deliberation on this question, thought that we would do well to concentrate our attention on the plebiscite and on means whereby it should be fairly conducted.

Remarks which I made in my statement of 21 March [*537th meeting*] on the question of the legality of the accession of the Maharaja of Kashmir, though it is not in any way go back on them, where therefore, in that view, subsidiary to the main argument. If they will not deal in

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detail with the merits of the claims of merits of the two parties in this question, I can assure the representative of India that it was not due to any ignorance of or inattention to these claims on my part, or rather because of my impression that a consideration of their merits would not advance the Council any way to a solution of the dispute.

The second aspect of our proposals to which Sir Benegal Rau took exception in his statement yesterday was connected with arbitration. He quoted an exchange of letters between his government and the Commission in the endeavour to show that certain questions were regarded as settled. He suggested that arbitration would reopen these questions to the prejudice of India and, furthermore, would give the Pakistan Government a right to be consulted in matters which the Commission had already agreed were outside the competence of the Government of Pakistan to discuss.

I would only remind members of the Council that the whole of part II of the resolution of 13 August 1948 is prefaced by the statement that : "……both governments accept the following principles as the basis for the formulation of a truce agreement, the details of which shall be worked out in consultation between their representatives and the Commission".

Since the truce agreement has still to be formulated, I would suggest that in no sense is consultation with both parties excluded by that resolution. But my government would not wish to prejudge the findings of any arbitrators on this point. The extent to which the matters dealt with in the two agreed resolutions are already decided and the extent to which Pakistan has a right to be consulted are, we believe, in themselves two points eminently suitable for determination by arbitration. Indeed, since there is disagreement by the parties on them, arbitration provides the only suitable and perhaps the only possible means of determination. Of course, it is not my government's intention that any matter which has been clearly decided in favour of the Government of India should now be decided otherwise Of course not. The exchange of letters quoted by Sir Benegal Rau will be taken into account

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by the arbitrators and, in so far as they decided certain points in India's favour, arbitration could only, of course, confirm these decisions.

There remains one further point arising out of the statement by the representative of India yesterday which I think I ought to mention. He suggested I was inconsistent in appealing to his government to ensure that the proposed Kashmir constituent assembly did not in any way prejudice the work of the Council while, at the same time, emphasizing the view of my government that the accession could not be regarded as a matter which has already been settled. I do not really think that there is any incompatibility between these two views. This dispute is one between India and Pakistan. It is obvious that, if there is one of these two parties to whom the Council must appeal in order to prevent prejudicial action by the Kashmir constituent assembly, it is to the Government of India. Though I hesitate to cross swords with such an authority on constitutional law, I believe this is a matter which the Council must regard solely from the standpoint of how the two governments can help to give effect to the agreement embodied in the two resolutions of the United Nations Comission for India and Pakistan.

The proposal is really very simple. All we ask is that both parties to the dispute should give their full assistance to the Council so that—and here I quote the paragraph 1 of the United Nations Commission's resolution of 5 January 1949 : "The question of the accession of the State of Jammu and Kashmir to India and Pakistan will be decided through the democratic method of a free and impartial plebiscite."

It is in the conviction that the revised draft resolution that the representative of the United States and myself have placed before the Council provided the best method of achieving this that I express the hope that the Council will adopt it.

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70. Text of the Speech made by Mr. Austin (United States of America) in the Security Council Meeting No. 543 held on 30 April, 1951

When my Government undertook to explore the possibility of presenting the name of someone to this Council for the post of United Nations Representative for India and Pakistan, it turned to the Panel for Inquiry and Conciliation created by General Assembly resolution 268 D (III) of 28 April 1949 on the recommendation of the Interim Committee. Mr. Graham, as you know, is among the five distinguished United States citizens designated by my Government for inclusion in the panel. His fine qualities are well appreciated in the United States, where he is known as a distinguished educator, statesman, government official and negotiator of great ability. I know that he will bring to this new task in full measure the qualities needed for the accomplisment of his mission.

In expressing the good wishes of the United States for the success of the mission of the new United Nations Representative, I should like to add a word or two regarding the character of that mission. This is or may be two-fold, as the Council knows. His first effort will be to effect demilitarization in the State of Jammu and Kashmir on the basis of the international agreement embodied in the 13 August 1948 and 5 January 1949 resolutions of the United Nations Commission for India and Pakistan [*S/1100, S/1196*]. While previous efforts to bring about agreement between the parties on the demilitarization provisions of these resolutions made by the United Nations Comission, by General McNaughton and Sir Owen Dixon have not been successful, they have undeniably made progress toward the desired end. The area of disagreement has been narrowed and we have, thanks to them, a fairly clear picture of what these disagreements are. I am sure that the debate on the Kashmir question recently concluded in the Council, in which the representatives of Pakistan and India have presented their governments' views, has been most helpful

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to the members of this Council. Council members in their intervention exhibited a large measure of agreement in their understanding of the issues and in their ideas of what should be done to resolve them.

The disagreements on the demilitarization process still existing are basically differences of interpretation of how the framework provided by the two resolutions of the United Nations Commission should be filled in. These resolutions, in attempting to devise procedures which would furnish adequate security and equitable treatment for all, went as far as was possible at the stage then reached. The procedural details necessarily had to be left to be worked out by the parties. This they have not yet fully succeeded in doing. It is our earnest hope that both parties will work out with Mr. Graham and implement the details of demilitarization preparatory to the blebiscite, which will permit the people of Kashmir freely to express their will regarding the question of accession.

If, however, these efforts should fail of their purpose, the United Nations Representative would embark in the second phase of his mission. He would return to this Council and report to it those points of difference between the parties, in regard to the interpretation and execution of the agreed resolutions of 13 August 1948 and 5 January 1949, which he considers must be resolved to enable demilitarization to be effected. The arbitration clause of the present resolution would then become operative, and the United States most earnestly urges that the parties accept the arbitration procedure as a final step to concluding a peaceful settlement of this problem, which holds so such danger for the peace, prosperity and stability of the great sub-continent. I fully concur with our President who said at the 538th meeting of this Council.

> "In a case like the one with which we are dealing, this would seem to be the logical procedure, since it concerns questions which, as the representative of Brasil has so ably explained, might well be considered as coming within the widely acknowledged

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particiable sphere where arbitration would be fully satisfied."

71. Text of the Speech made by Mr. Gladwyn Jebb (United Kingdom) in the Security Council Meeting No. 543 held on 30 April, 1951

In explaining my vote I should in the first place, like to remark on behalf of my government the decision which this Council has just taken and, in particular, to express my Government's appreciation of Mr. Graham's readiness to undertake the great and admittedly arduous responsibilities of his appointment as United Nations representative for India and Pakistan. Mr Graham surely we know, carry with him to the sub-continent our good wishes and the firm support of the Council as a whole. His task is clear : it is to work for a settlement of those differences which have so far prevented the Governments of India and Pakistan from effecting the demilitarization of Kashmir. If he succeeds in this the way will be open for Admiral Nimitz, as Plebiscite Administrator, to organize the plebiscite to decide the future accession of the State of Jammu and Kashmir.

None of us, I think, has any illusions about the difficulty of the task which Mr. Graham has, fortunately, accepted, but we all trust that he will find the two governments ready to reach some agreement on a question which, if it only could be considered dispassionately, is by no means insoluble. Mr. Graham, in undertaking this mission on behalf of the United Nations, will, I hope, feel strengthened by the clear and unequivocal views expressed by members of the Council in the discussions leading up to the adoption of the resolution of 30 March.

If the wise statesmanship which led the two governments to agree on the cease-fire in Kashmir and to acceptance of the two resolutions for the United Nations Commission for India and Pakistan, can be applied to the immediate problem of demilitarization, there should indeed, we think, be real-

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hope of progress towards a settlement. His Majesty's Government in the United Kingdom has, however, noticed with regret what appears to be a misapprehension in the Indian subcontinent on certain aspects of the resolution of 30 March, and notably in regard to arbitration. We have seen it suggested that under that resolution the United Nations Representative is instructed to go to the subcontinent and to decide, as an arbitrator, whether the State of Jammu and Kashmir should accede to India or to Pakistan. But of course that is not in the least what the resolution says. As my Government understands the resolution, in fact it instructs the United Nations Representative, after consultation with the Governments of India and Pakistan, to use his best endeavours to obtain their agreement to a plan for the demilitarization of the State of Jammu and Kashmir in accordance with the principles contained in the two United Nations Commission for India and Pakistan resolutions. Further, it instructs him, after obtaining this agreement, to put the plan into effect. In other words, his instructions are to bring about the demilitarization of the State in agreement, if possible, which the Governments of India and Pakistan. So far, his task is to be entirely one of negotiation. In this capacity he will have, of course, the full authority of the Security Council and the United Nations behind him, and he will be able to point to the views expressed by the majority of the members of this Council in regard to the fundamental principle that demilitarization should be such that the plebiscite can be held free from any influence by the armed forces of any interested party to the dispute. But nevertheless his task will be that of negotiation and not a task of arbitration.

If, however, he is unable to obtain the agreement of the Governments of India and Pakistan to a plan for demilitarization, or for putting such a plan into effect, the United Nations Representative is instructed to report back to the Council and to define those points of difference, arising out of the interpretation and execution of the two agreed United Nations Commission for India and Pakistan resolutions, which are preventing demilitarization. Only then, if the

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United Nations Representative reports such points of difference, will the question of arbitration arise, and arbitration would deal only with the points of difference concerning demilitarization.

So it should be clear, we think, that the resolution of 30 March calls upon the parties to accept arbitration only on matters which might be described as procedural rather than substantive, only on matters concerning the demilitarization of the State, which is a part of the procedure for holding a plebiscite, and not on the substantive question of accession itself.

The accession itself, far from being decided by the United Nations Representative, or by the arbitral panel for that matter, is to be decided by a free vote of the inhabitants of the State. The whole purpose of the resolution, as my Government sees it at any rate, and the purpose which I am sure will guide Mr. Graham in his mission as United Nations Representative, is to facilitate holding of a plebiscite to decide the future accession of the State of Jammu and Kishmir in circumstances which will ensure for the inhabitants of the State the right to express their preference in full knowledge of all the facts and without fear that they will suffer by expressing such preference.

It is because the co-sponsors were convinced—and here I think I speak also for my United States colleague—that the inhabitants of Kashmir should not the prevented any longer by disagreement on matters of procedure from deciding the accession of their State to either India or Pakistan, that they included in the resolution which they presented to the Council provision for the determination of this disagreement by arbitration in case one final attempt to resolve it by negociation should fail.

Finally, in wishing Mr. Graham success in his mission I should like to repeat what I said when I introduced the draft resolution on 21 February last [*553rd meeting*]. I spoke then as follows :

> "I do not feel, indeed, that I can emphasize too much the fact that both Governments agreed on

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the essential elements of a settlement and that all that is now required is goodwill on both sides to solve outstanding points of detail. Given the far-reaching benefits which a settlement would bring and in all too obvious dangers of the continuance of the dispute, not only to the two countries themselves, but to all those countries elsewhere in the world which value human liberty and the demoeratic way of life, I trust I am not being too sanguine in expressing the hope that a final settlement of the dispute can now readily be achieved."

72. Text of the Speech made by Mr. Quevedo (Ecuador) in the Security Council Meeting No. 548 held on 29 May, 1951

The determination of the future political affiliation or allegiance of Jammu and Kashmir by the constituent assembly which is to be convened would be a violation or an attemped violation of the international agreement between India and Pakistan whereby the question is to be settled by means of a plebiscite. It would also be a failure to recognize the authority of the Security Council, and finally, it might prevent a peaceful settlement of the question.

At the meeting of the Security Council on 30 March, fearing that such an assembly might be convened and might take the decision referred to today, I said when the draft resolution approved at the meeting was being discussed [*539th meeting*] :

> "If there is any criticism to be made of the draft resolution, I think it is that its operative part, seeking not to depart from the area of agreement already reached by the parties so that implementation may be achieved, is not explicit enough in its statement of the requirements which seem in the present situation to be just, necessary and indispensable to the holding of a truly free and impartial

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plebiscite to express the desire of the people of Jammu and Kashmir."

I then added :

"Inasmuch as India and Pakistan have agreed that the final status of Jammu and Kashmir should be decided by a free and impartial plebiscite, that must be our point of departure and the legal and political basis for the Council's action.

"Upon this basis, in our opinion," I said, "it can only be inferred that:...the constituent assembly of Jammu and Kashmir cannot be considered as representing the people as a whole or as a free manifestation of the people's will, and the decisions of such an assembly can neither change nor deprive of their effect the international undertakings entered into by India and Pakistan in respect of the plebiscite."

I added that a free and impartial plebiscite presupposes that the electors shall be free from pressure, threats, intimidation or compulsion in any form by the local authorities, or by military or police forces (whichever they are called) in the territory during the preparation and holding of the plebiscite.

If therefore, the constituent assembly of Jammu and Kashmir were to do what is suggested in the speech of Sheikh Abdulla quoted by the delegation of Pakistan and made on 4 May, that is, convene the assembly in order to decide the future allegiance of this State, on the assumption that no one can veto its decision, it seems to me that the Security Council, which has today taken note of the statement made by the representative of India, should state beforehand categorically that any such decision by the constituent assembly could not be regarded as valid and would not therefore be recognized as a settlement of the problem, and should call upon the two Governments to abstain from taking or permitting any action

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which would prevent the holding of the plebiscite and the peaceful settlement of the problem.

73. Text of the Speech made by Mr. Graham (United Nations Representative for India and Pakistan) in the Security Council Meeting No. 564 held on 18 October, 1951

In this hour of the bereavement of the people of Pakistan and grief in India and the world in the death of the Prime Minister of Pakistan, Liaqat Ali Khan, I wish again to express my sympathy to Begum Liaqat Ali, who served him through the years with intelligent devotion, and to the people of Pakistan whom he served with high dedication. For many years he was the right arm of the founder of Pakistan, Mohammad Ali Jinah, militant shepherd of the Muslim people. In these last years, as the first Prime Minister, Liaqat Ali Khan was the eloquent voice of the mind and heart of the hopeful young nation. As the chief bearer of the burdens and hopes of eighty million people, he led them in troublous times to a high position among the nations of the world.

He is another witness to the fact that some of the noblest spirits of our time are born of the spiritual heritage and democratic hopes of the peoples of the South Asian sub-continent. He bravely laid his life as a sacrifice on the altar of peace. May his faith in peaceful procedures still prevail among the people. In his sacrificial death, he lives and carries on for his people. His immortal spirit, in co-operation with other noble spirits of the living and the dead of both countries, will work mightly for an early settlement of the Kashmir dispute in the advancement of the co-operative progress of two great peoples and the peace of the world.

I wish to express our grateful appreciation to the Governments of India and Pakistan for their generous hospitality, courtesies and co-operation.

To the Secretary-General and his associates, I am thankful for their co-operation in the selection of the able and experienced member of the advisory and administrative staff.

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The competence, industry and loyalty of the staff are the stuff out of which is woven the fabric of teamwork and the devotion of a mission to the principles and procedures of the United Nations. I list them again here in gratitude : Mr. Petrus Schmidt, a veteran of the Korean and Eritrean United Nations Missions, principal secretary, and his assistant, Mr. David Blickenstaff, political and liasion officer ; General Jacob Devers, former Commander of the Sixth Army during the Allied offensive into Germany and former Commander-in-Chief of the United States Ground Forces, Military Adviser, and his aide, Colonel Joy, Dow, also *pro tempore* acting information officer ; Mr. Miguel Marin, experienced political and legal adviser, whose services with the United Nations Commission for India and Pakistan have given him first-hand knowledge of the documents, proceedings and reports of UNCIP ; Lieutenant-Colonel and Professor William B. Aycock, a veteran of Patton's Third Army, personal assistant to the United Nations Representative and *pro tempore* liaison officer ; Mr. Philippe d'Esterno, formerly of the United Nations staff of Admiral Chester W. Nimitz, Plebiscite Administrator designate since 1949, political officer and acting information officer ; Mr. Edward Lawson, leader in the movement for civil rights, United Nations social affairs officer and adviser on minority problems ; Miss Audrey Awen, administrative assistant ; Miss Mary Robertson, Secretary to the United Nations Representative ; Miss Louise Crawford, secretary *pro tempore* ; and Sergent Richard Hainey, secretariat aide to General Jacob Devers.

It would be remiss not to recall the able and devoted work of the United Nations Commission for India and Pakistan in 1948 and 1949, through whose good offices were achieved the cease-fire and the acceptance by both Governments of its resolutions of 13 August 1948 and 5 January 1949, both of which, together with the three reports of UNCIP [*S/1100, S/1196, S/1430 and Adds. 1, 2 and 3*], constitute the reference frame of our Mission ; of General A. G. L. Mc Naughton, former war Commander of the Canadian Armies,

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as the mediating President of the Security Council in December, 1949 ; and of Sir Owen Dixon, the internationally distinguished Justice of the Australian High Court, as the first United Nations Representative for India and Pakistan, whose summary report [*S/1761 and Add. 1*] is a basic document in the Kashmir dispute.

We should in these troublous times be mindful of the competent vigilance, during many arduous months in a rugged terrain along the cease-fire line, of General R. H. Nimmo and his United Nations military observers from many lands, and of his predecessor, Brigadier Harry Angle, who, together with some of his observers and air crew, lost his life in the crash of the United Nations plane, and of General Delvoie, the first military adviser to the United Nations Commission for India and Pakistan : of the air services of Major H. W. Robertson and his crew, and the administrative services of Mr. Mark Short and his staff, who remain stationed on the sub-continent with General Nimmo. General Jacob Devers, our Military Adviser, has expressed a high tribute to the leadership, discipline, morale and co-operative spirit of both armies.

To the Security Council we are grateful for the opportunity and rich experience of coming to know something of the background, lives and struggles and hopes of two great peoples. Upon the settlement of their differences may largely depend the peace, freedom, welfare and progress not only of the two nations on the sub-continent but also of all the nations on the earth.

These differences have resulted from conflicting interpretations of the obligations of the two Governments regarding demilitarization under the provisions of the two resolutions of the United Nations Commission for India and Pakistan which both Governments had accepted.

It is of decisive importance that these differences be resolved. The longer they remain unresolved, the more difficult it is to reach a settlement, because of the vicious circle which delay itself creates. For example, during the summer the Government of India expressed grave concern over talk in Pakistan of holy war against India. During the summer also,

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the Government of Pakistan expressed grave concern over the lack of an effective demilitarization of the State of Jammu and Kashmir and over Indian troop movements near the border of Pakistan.

The lack of an effective agreement on demilitarization causes impatience and indignation among the people of Pakistan, and, among some elements, talk of a holy war against India. Delays in demilitarization cause talk of war. Talk of war causes delays in demilitarization. One of the problems close to the heart of the matter is to find a way to bring to an end this circle apparently without an end. It is my hopeful faith that the high capacity for social, political and military inventiveness of the leaders of the two countries, with continued mediation of the United Nations, will soon find a formula to end the talk of war and bring about demilitarization.

To resolve these differences and break the vicious circle, twelve proposals were submitted to the parties as a basis for a draft agreement.

I shall not here recapitulate the whole report, which is already in your hands. I shall now simply give the main substance of the twelve proposals, submitted to the two Governments on 7 September 1951 for consideration as the basis for an agreement, and the positions of the two Governments regarding these twelve proposals. In doing this, I shall, since the report is a composite work with my staff, include mainly by direct quotation from the report the main differences between the parties, the conclusions and the recommendations, and then make some-purely personal observations. First I quote from the central body of the report as follows :

> In order to assist in the creation of an atmosphere conducive to the adoption of a plan of demilitarization, and to narrow the differences between the parties with regard to such a plan, the United Nations Representative presented the proposals contained in the draft agreement as specified below. The official replies of the two Prime Ministers

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expressed not only the desire of their respective Governments to settle peacefully their differences regarding the State of Jammu and Kashmir, but also their willingness to take definite steps to relieve the cumulative tensions between the two peoples".

First, let us consider proposals 1 to 4 :

"49. Paragraphs 1 to 4 of the proposed agreement deal with general principles. Their objectives were as follows :

"A. *To meet a threat of recourse to war*, the United Nations Representative proposed that the Governments of India and Pakistan

" '1. Reaffirm their determination not to resort to force and to adhere to peaceful procedures and specificially pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of the State of Jammu and Kashmir ;"

"B. *To meet the problem of detrimental propaganda*, the United Nations Representative proposed that the Governments of India and Pakistan

" '2. Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizens, organizations, publications and radio stations not to make warlike statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir ;'

"C. *To meet alleged violations of the cease-fire*, the United Nations Representative proposed that the Governments of India and Pakistan"

" '3. Reaffirm their will to observe the cease-fire effective from 1 January 1949 and the Karachi Agreement of 27 July 1949 ;'

"D. *To meet the situation created by the convocation of a Constituent Assembly in the State of Jammu and*

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Kashmir, the United Nations Representative proposed that the Governments of India and Pakistan

"'4. Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations :'

"50. The replies of both Governments indicated that they were favourable to these first four clauses of the proposed agreeement....."

"55. Paragraph 5 of the proposed agreement was drawn up as follows :

" *'The Government of India and Pakistan.....*

"Agree that subject to the provisions of paragraph 11 below, demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP's resolutions of 13 August 1948 and 5 January 1949 should be effected in a single, continuous process.'

"56. Agreement that the demilitarization of the State of Jammu and Kashmir should be effected in a single, continuous process implied, in the opinion of the United Nations Representative, the implementation of part II of the 13 August 1948 resolution, together with sub-paragraphs 4 (a) and (b) of the 5 January 1949 resolution as a whole..."

"57. The position of the two Governments on this proposal may be expressed as follows :

"*India*

"The Government of India agreed that demilitarization should be effected in a single continuous process in so far as it combined the demilitarization envisaged in sub-paragraph 4 (b) of the 5 January 1949 resolution with part II of the 13

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August 1948 resolution but not to the extent of including the substantial part of sub-paragraph 4 (a) of the 5 January 1949 resolution. India was therefore willing to withdraw the bulk of the Indian forces plus some of the remainder...so as to leave on the Indian side of the cease-fire line one line of communication area head-quarters and one infantry division... but of four brigades of four battalions each, provided such a plan calls for complete demilitarization on the Pakistan side of the cease-fire line, except for a civil armed force of 4,000 persons normally resident in *Azad* Kashmir territory, half of whom should be followers of *Azad* Kashmir and the other half persons who are not followers of *Azad* Kashmir. This force, according to the Government of India, should be commanded by United Nations officers or 'locals' and not by Pakistan officers.

"*Pakistan*

"The Government of Pakistan agreed that demilitarization should be effected in a single continuous process subject to the provisions of paragraph 11 of the proposal of the United Nations Representative for India and Pakistan. The demilitarization", according to Pakistan, "envisaged in 4 (a) and (b) of 5 January 1949 resolution should be combined with the provisions of part II of 13 August 1948 resolution. Pakiston was therefore willing to accept large-scale disarming and disbanding of the *Azad* Kashmir forces in a plan for the implementation of part II of the 13 August 1948 resolution, provided such a plan calls for withdrawals of the balance of the Indian forces (after the bulk) and a reduction of the State armed forces and State Militia."

So much for proposals 1 to 4 and 5.

Now with regard to proposals 6 to 12 :

> "58. The principles for a plan of demilitarization were set forth in paragraphs 6 to 12..."

Their main substance is implicit in the replies of the two Governments to these proposals, which also indicate the main differences regarding proposals 6 to 12,

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The replies of the Governments of India and Pakistan to paragraph 6 to 12 of the proposed draft agreement, as they have been summarized in the report, indicate, in the opinion of the United Nations Representative, that the points of difference between the two parties in regard to the interpretation and execution of demiltarization on the basis of the draft agreement can be established as follows :

With regard to the period of demilitarization the Government of India greatly doubts whether, during the period of ninety days, the firm will to settle the Kashmir question peacefully would have replaced in Pakistan the spirit and temper of war prevailing at the time. The Government of Pakistan agrees that the phase of demilitarizatipn should be completed as suggested during a period of ninety days, unless another period is decided upon by representatives of the Indian and Pakistan Governments.

Concerning the withdrawal of troops, the Indian Government is readly to withdraw the bulk of the army when the tribesmen, Pakistan nationals not normally resident in the State of Jammu and Kashmir, and the Pakistan troops have been withdrawan from the State and large-scale disbandment and disarmament of the *Azad* Kashmir forces have taken place.

The Government of India maintains that further withdrawals or reductions, as the case may be, of the India and State armed forces remaining in the State after the complete withdrawal of the bulk of the Indian forces, cannot be related to the period of ninety days. Both the period during which these further withdrawals or reductions are to be made, and their phasing and quantum, cannot, in the opinion of the Government of India, be determined at present.

The Government of Pakistan agrees to the withdrawals as proposed in the draft agreement, emphasizing that the term "further withdrawals or reduction" mentioned in sub-paragraph 7 B (ii) refers to a large-scale reductions and disarmament.

The Government of India agrees that on the Pakistan side of the cease-fire line at the end of the period agreed upon, there should be a force of 4,000 men, consisting of persons

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normally resident in the *Azad* Kashmir territory, half of whom should be followers of *Azad* Kashmir and the other half of persons who are not followers of *Azad* Kashmir. This force should be commanded by United Nations officers or "locals" and not by Pakistan officers.

The Government of India states that there will remain on its side of the cease-fire line in Jammu and Kashmir one line of communication area headquarters and one infantry divison of four brigades of four battalions each.

The Government of Pakistan maintains that the same standards should apply to the status of the forces to be left on each side of the cease-fire line.

The Government of Pakistan considers that a force of no more than four infantry battalions, with the necessary administrative units, should remain on each side of the cease-fire line at the end of the demilitarization programme. Pakistan, however, agreed that some slight difference in the strength or description of the two forces should not stand in the way of an agreement being reached.

With regard to the Plebiscite Administrator, the report states in paragraph 60, point 4 :

> "(a) The Governmens of India considers that the proposals concerning the appointment of the Plebiscite Administrator should be omitted from the agreement. According to the Indian Government, they would be more appropriately included in proposals that deal specifically and in detail with the holding of the plebiscite and connected matters.
>
> "(b) The Government of the Pakistan emphasizes the importance of appointing the Plebiscite Administrator formally to office as much in advance of the final day of demilitarization as possible."

From this analyes, the following conclusions are drawn in the report :

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"62. Due to the situation prevailing on the subcontinent, as explained in chapters II and III, it was not possible to effect demilitarization during the time available as the United Nations Representative under his terms of reference.

"63. The United Nations Representative has set forth in chapter III the main differences between the two Governments, not only in regard to their interpretation and execution of the UNCIP's resolutions of 13 August 1948 and 5 January 1949 concerning demilitarization, but also in regard to points of difference between the parties concerning the proposals made by him for an agreement on a plan for demilitarization. The United Nations Representative considers that, by doing so, he has carried out the instructions contained in paragraph 5 of the resolution of 30 March 1951 of the Security Council.

"64. It is with satisfaction and hope that the United Nations Representative emphasizes the fact that the Prime Ministers of India and Pakistan, in their replies to his proposals for an agreement, expressed their willingness to :

"(a) Reaffirm their determination not to resort to force.....;

"(b) Agree that each Government, on its part, will..... ...urge all its citizens.....,not to make warlike statements.....;

"(c) Reaffirm their will to observe the cease-fire..... ;

"(d) Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations.

"Considering the results of the informal consultations held by the United Nations Representative with the Governments of India and Pakistan, and the written replies received from the two Govern-

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ments to his letter of 7 September 1951, and considering further the points of difference formulated at the end of chapter III of this report, the United Nations Representative has come to the conclusion that, although he does not underestimate the difficulties, the possibility of arriving at a basis of agreement between the two Governments is not excluded."

With regard to recommendations, the report in chapter V states the following :

"Accordingly, the United Nations Representative recommends to the Security Council :

"1. That the Security Council call upon the Governments of India and Pakistan to take immediately all measures to improve the relations between the two countries by avoiding any increase of their military potential in the State of Jammu and Kashmir, and by instructing their official spokesmen and urging all their citizens, organizations, publications and radio stations not to make war-like statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir ;

"2. That the Security Council consider the possibility of a renewed effort being made to obtain an agreement"—may I emphasize oral agreement—"of the parties to a plan for effecting the demilitarization of the State of Jammu and Kashmir ;

"3. If the Security Council decides that a renewed effort to obtain an agreement should be made, it might consider instructing the United Nations Representative to implement its decision by continuing the negotiations with the Governments of India and Pakistan in order to obtain an agreement of the parties to a plan for effecting the demilitarization of the State of Jammu and Kashmir. Such negotiations should be carried out at the seat of the Security Council, and the Council should instruct the United Nations Representative to report to the Council within six weeks."

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The United Nations Representative in making these three recommendations, because of his faith in the two Governments, wishes now to make an additional purely personal statement to emphasize the possible far reaching results of an early agreement on the implementation of the provisions for demilitarization to the people of Jammu and Kashmir, to the people of India and Pakistan, and to the people of the world.

With respect to the value of a settlement to the people of the State of Jammu and Kashmir, the first significant result which would proceed from an agreement would be the exercise by the people of Jammu and Kashmir of the promised right of self-determination for which they have been anxiously waiting for three years. It would recognize the enduring idea that, in the long run, the sovereignty which proceeds from princes is subject to the sovereignty of the people who, after all, under God, are the highest soverignty. Any status based on the compulsion of force by either nation or on the attrition of long delays in settlement would not be permanently accepted by the people of the State or of either nation, would not be in accordance with the principles and spirit of the United Nations, would not have the support of the moral opinion of mankind, and therefore could not long endure.

As a practical matter, without fulfilment of the promised right of self-determination through the democratic method of a free and impartial plebiscite to be conducted under the auspices of the United Nations, the continuing dispute, as has been well said, would become a running sore, which would tend to drain away resources and energies to the damage of the State and the peoples of both nations.

Furthermore, an agreement on the provisions for actual demilitarization as a fair condition for holding a free plebiscite would obviously be welcomed by many peoples of Asia who, out of their long and recently victorious struggles for self-determination, have a most sympathetic concern. Such an agreement would give a lift to the spirit of peoples anywhere struggling to be free.

As to the value of a settlement to the peoples of both nations, the chief road-block in the way of the co-operation

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of India and Pakistan is the Kashmir dispute. The prior settlement of the Kashmir dispute. The prior settlement of the Kashmir dispute would help clear the way for the settlement of other disputes of importance to the life of millions of people in India and Pakistan. Without knowledge of and without any thought on my part of going into the merits of any other disputes, it is appropriate to point out that the importance of the other disputes adds even more to the high importance of settling the Kashmir dispute. The settlement of the dispute about which there is the most bitterness would remove the main barrier to the spirit of co-operation between India and Pakistan necessary for the settlement of the disputes over evacuee property and waterways. In pointing out the importance of the disputes over evacuee property and waterways. I mean only to emphasize the higher importance of first settling the Kashmir dispute.

The lack of settlement of the evacuee property issue gives millions of people, including their families and friends, a deep sense of grievance and injustice which is damaging to the creative energies and hopes of both peoples. These refugees from communal slaughter, uprooted from the land, who passed or counter-passed each other on the trek from one country into the other, have called forth the heroic efforts of both nations for their rehabiliation. To assuage some of the sorrow in their hearts and the horror in their memories, an agreement to adjust for them in their new country the values of their lands, homes, shops and other property left behind in the old country would relieve some of the tension between the two peoples and add to the productive energies and morale of both nations.

The co-operative spirit, enhanced by a settlement of the Kashmir dispute, would also likely facilitate the settlement of the dispute over rivers and canals. This dispute is another obstacle in the way of the co-operation of India and Pakistan in the development of a programme for the maximum use of the water resources to the advantage of both. Too much the waters from the hills and mountains wash away the precious topsoils, pile up the slit in the rivers, and go their wasteful way

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to the sea. The river valley systems can be co-operatively developed for the storing of vast water resources, conservation of the soils, irrigation and reclamation of the lands for the production of foods and fibres and for the generation of power to meet the urgent needs of the peoples of the whole sub-continent. Out into the waste places and up the hillsides would move the mills and factories with their creative power, and down from the hills would come tumbling the rivers for the electrification of civilization, cleanly charged with the potentials for the production of foods, fibres, goods, books, leisure, culture and something more of the good life for the further self-development of the high natural and spiritual capecities of the people of India and Pakistan.

During the past several months, along with my task of finding out the present differences between the two nations over Kashmir. I have been trying to find out their historic differences in fundamental ideas and ways of life. I have read through scores of books and piles of related material, talked with many people in my line of duty and observed the life and scenes about me. I have, within the narrow limits of my time, my ability and opportunity, tried to dig deep into the centuries to find the origin and depth of these differences.

Though I am still in the midst of explorations, even the fragments of my findings move me to say that it is important for the peoples of the sub-continent and the world that every efforts should be made promptly by the two Governments and by the United Nations to settle this crucial dispute between the two pep'es. Despite all the history, experience and hopes which the two peoples have long had in common, a present crucial dispute too long unsettled might become to heavily charged as to connect the currents of present differences with high potentials of profound historic differenees. An unsettled dispute over Kashmir must not be allowed to overspread and engulf two nations in the horrors of fatricidal strife. Disputes dragging along over demilitarization in one State must not be allowed to overspread and engulf two nations in the horrors of fratricidal strife. Disputes dragging along over demilitarization in one State must not be allowed to drift into an

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unintended catastrophe for a whole sub-continent. A local spark must not become a global conflagration. It would be tragic for all peoples for the conditions on the sub-continent either to drift or to explote into war, which be ruinous for both nations and disastrous for the world.

The damaging results of unsetted disputes and the vast human needs of hundreds of millions of the people of the two nations emphasize the need in the mind and hearts of men and women of good will in both India and Pakistan for a settlement of this most crucial dispute. Furthermore, the mutually destructive fears, bitter memories and profound differences make imperative the finding of moral substitutes through the development of projects for creative international co-operation between the two peoples. International conferences between leaders and representatives of the two peoples can promote the co-operative development of water resources, hydro-electric power, economic programmes, scientific reserch, health projects, university exchange, intercollegiate sports, youth conferences, women's associations, civic clubs and every other fundamental field of international co-operation for a freer and fairer life. Wth full and final acceptance of each other's national independence and with full loyalty to their own high spiritual heritage and indigenous ways of life, the two peopes have opportunities for the needed positive programmes of co-operation as various as the life of the people on the long peninsula between the seas, as wide in scope as the vast sub-continent, as annual as the monsoons and as high as the mountains from which come the waters of life for the people.

An agreement on the provisions for the demilitarization of the State of Jammu and Kashmir may provide the example of international co-operation for peace for which the peoples of the world hope in their day's work and pray in the sanctuary of their hearts. The leaders and the peoples of India and Pakistan want peace. Yet these two great peoples are turned from a larger realization of their far-visioned programmes by fears of possible war on the sub-continent. The great masses of the people of the British Commonwealth, the

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Soviet Union, the United States and all the other nations of of the world want peace. Nevertheless a billion and a half people in two opposing worlds are turned from a larger fulfilment of their humane programmes by the fear of a third world war.

The intellectual, political and spiritual leaders of India and Pakistan have the most strategic opportunity, through the settlement of a complex and stubborn dispute, to give to the United Nations and to the peoples of the world a desparately needed example of international co-operation for freedom, self-determination and peace.

The United Nations, with all its growing pains and frustrations, is the only international body for the settlement of the most difficult international disputes. The failure of peaceful settlement of such deep disputes has involved the world in tragedies too terrible to risk again. The United Nations, with all its defects, is nevertheless, with its multi-lateral procedures for the peaceful settlement of complex disputes, still the best hope of the peoples for peace.

The call comes to the peoples and the leaders of India and Pakistan not only from the United Nations but also from the homes and the common life and hopes of hundreds of millions of human beings all over the earth who toil in the fields and factories, people in the villages, towns and cities, mothers and fathers in homes, refugees without homes, sons and daughters dreaming of homes of their own, children in schools and without schools and the un-numbered millions of human beings disinherited by war and hate. The call comes from the people of our common human family around the earth who hope for homes and work in freedom and peace for themselves and their children.

On the vast Asian peninsula between the seas guarded by the highest mountains on this earth, developed one of the most advanced ancient civilizations of prehistoric times. Out of the basic Dravidian-Indo-Aryan stocks with Greco-Scythian, Arab, Persian, Turco-Afghan, Moghul and British elements and influences, have developed the peoples of India and Pakistan. The Portuguese, the Dutch, the French and

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more especially the British made the sub-continent an inter-dependent part of the great commercial revolution by which the new lands of America and the old lands of India and the East became the mighty pivots upon which the medieval turned to the modern world. The Hindu epics, traditions and folk dramas, the Koran, the Islamic traditions, the assimilations of great religions; the values and treasures of great languages and literatures; the principles of the common law and the fundamental rights of the common man, the struggles of the peoples on that sub-continent, on the foundations of their own ancient spiritual heritage, for the principles of civil liberties, federalism and parliamentary government, of the basically humane people against whose imperial rule the peoples of the sub-continent struggled—all are now combined together in the ancient heritage and fresh hopes of the great peoples of India and Pakistan.

From the heritage and hopes, life and struggles of these peoples, great leadership has developed from the times of Ashoka to Gandhi and Nehru and from the days of Akhbar to Jinnah and Liaqat Ali Khan. Out of the crossing of ancient faiths and modern science, old customs and modern democracy, frustrations and hopes, patient sufferings and victorious struggles in great causes, have developed some of the noblest spirits of our time, always overburdened, sometimes baffled but never daunted on that sub-continent as they grapple with the problems of poverty, hunger, disease, illiteracy, religious intolerance, caste, class and exploitation of untold millions of people struggling toward a higher freedom.

On the southern sub-continent of Asia and in many lands east and west, men and women of good will are working and hoping through the long days and nights, against the desperate hours of a darkening age, to redirect the possibilities of the self-destruction of civilization to the potentialities of creative co-operation of nations in a great adventure of the human spirit through the United Nations, pioneering along the far frontiers of the vast wilderness of our yet unmastered civilization.

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As a key part of this forward movement of freedom, an agreement on the provisions for the actual demilitarization of the State of Jammu and Kashmir, by preparing the way for a free and impartial plebiscite and the self-determination of the people, would prepare the way for the settlement of other disputes and the larger co-operation of the Governments and peoples of India and Pakistan; it would strengthen the democratic and moral ties of the Indonesian, Southern Asian, North African, South-eastern European and Mediterranean world, not as a bloc but as a spiritual force for freedom and peace, and might bring about a reorientation of the relations of East and West for a decisively human turn in the tragic history of our times.

The great leadership of the peoples of India and Pakistan, by the settlement of this crucial dispute, might set in motion a spiritual chain reaction which, we pray, would encompass the earth with the moral power or mankind in behalf of human freedom, the self-determination of people and the co-operation of nations for the peace of the world.

Through the statement of the Kashmir dispute, through the mutual, respect for the national independence and high values of both peoples by both peoples and through the co-operation of both nations in their far-visioned educational, agricultural, industrial, social, scientific, medical and humane programmes for the equal opportunity, the more abundant and spiritual life of all their people, may I readapt, in a spirit of brotherhood with both great peoples, a hope which I once expressed for my own beloved country.

May India and Pakistan be nations in which, in the larger fulfilment of their own ancient heritage and youthful hopes, in response to their owu great leaders, the people more and more become brothers in the sight of God and in the human heart; where the lowest and the highest and all the people equally together have the freedom to struggle for a higher freedom; where life is made richer by the vigour and variety of the differences of the people; where the answer to error is not terror, and the response to a difference in religion, race, colour, economic condition or social status is

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not discrimination, exploitation or intimidation. Where and when men are free, the way of progress is not subversion, the respect for the past is not reaction, and the hope of the future is not revolution ; where the majority is without tyranny and the minority without fear, all people have hope for freedom, peace and brotherhood in the long human pilgrimage, under God, toward one world neighbourhood of human brotherhood.

An agreement regarding the provisions for the demilitarization of the State of Jammu and Kashmir would be one decisive step toward the fulfilment of this long hope, to which India and Pakistan and the nations of the world are committed by the noble principles of the Charter of the United Nations.

74. Text of the Speech made by Sir Gladwyn Jebb (United Kingdom) in the Security Council Meeting No. 566 held on 10 November, 1951

In his report [*S/2375*] presented to the Security Council on 18 October, a copy of which we have in front of us, Mr. Graham, the United Nations representative for India and Pakistan, recommended that if the Security Council decided in favour of a renewed effort to obtain the agreement of the Governments of India and of Pakistan to the proposals for demilitarization which he made to them, he might be instructed to continue his negotiations with the parties.

Members of the Council will, I am sure, share our own admiration for the ability and devotion brought by Mr. Graham to this difficult task. They will equally, I am sure, support my view that, if in Mr. Graham's view there is any chance that, by a further comparatively brief period of negotiation, agreement between the parties can be reached or substantial progress towards agreement made, that chance should be taken. That Mr. Graham does consider a prospect of further progress exists is evident.

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It is therefore the opinion of my Government and, I believe, of the Government of the United States who are the co-sponsors of the draft resolution [*S/2390*] which is now in front of you, that this recommendation of Mr. Graham's should be accepted.

This forms the central feature of the draft resolution which instructs the United Nations representative to continue his endeavours to obtain the agreement of the parties to a plan for demilitarization and to make his report to the Security Council within six-weeks from the coming into force of the resolution.

The draft before the Council is a brief and simple one and one that I hope both parties will be able to accept without reservation. We are, I am sure, all agreed that Mr. Graham's prospects in this further mission, in which we fervently wish him all success—and I am only sorry that, being indisposed, he is not here this morning, so that I am not in a position to wish him success personally—will best be served by the avoidance now of any lengthy debate. We have not felt that any detailed restatement of the United Nations representative's terms of reference was needed. He will still be operating within the framework of the Security Council's resolution of 30 March last [*539th meeting*]. He will in fact be trying to complete, in the additional six-weeks now proposed, the task assigned to him under that resolution. I do not think that I need go into any lengthy exposition of this draft resolution, but I should like to draw the attention of members of the Council to the second paragraph of the preamble.

My Government has felt it important that Mr. Graham and the parties should be left in no doubt of the Council's approval of the manner in which he performed his task and of the broad lines of the programme for demilitarization which he laid before the parties.

There is one further question not directly touched upon in the draft resolution to which I must refer. Members will recall that the Council's resolution of 30 March reminded the governments and authorities concerned of the principle embodied in the various Security Council and United Nations

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Commission for India and Pakistan resolutions on Kashmir, that the final disposition of the State should made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

The resolution went on to point out that the convening of a Constituent Assembly by Sheikh Abdullah's Government in Kashmir and any action taken by that Assembly to determine the future shape of the State would not constitute a disposition of the state in accordance with the above principles.

Finally, the operative part of the resolution called on both parties to refrain from any action likely to prejudice a just and peaceful settlement.

Now, since that resolution was adopted, a Constituent Assembly has been convened by Sheikh Abdullah's Government. Its inaugural session in Srinagar has just ended, and speakers, including Sheikh Abdullah, have referred to the question of the future of the State. As far as I can judge, the Constituent Assembly itself has not sought to pronounce on this issue of accession.

I should like, if I may, to make it clear that His Majesty's Government attaches great importance to those portions of the 30 March resolution dealing with this subject, and I think it is pertinent to recall the assurances given to this Council from time to time by the representatives of India that the Kashmir Constituent Assembly is not competent to take any decision on the question of accession ; and that, though it cannot be prevented from expressing its opinion on this subject, this opinion will not bind the Government of India or prejudice the position of this Council

Those solemn assurances have been strengthened by a recent statement made by Mr. Nehru which I am sure my collegagues from Pakistan and members of the Council will welcome. I should like to quote the relevant portion of this statement is it has reached me. In answer to a question about the effect which the convening of the Kashmir Con-

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stituent Assembly would have on the current United Nations proceedings in Paris, Mr. Nehru said :

> "We have made it perfectly clear in our statement in the Security Council that the Kashmir Constituent Assembly, so far as we are concerned, does not come in the way of a decision by the Security Council ; that stands completely."

That is a quotation from what Mr. Nehru said. Mr. Nehru went on to emphasize India's wish for the earliest possible plebiscite, and to state that India stood completely by her commitments to the Security Council. These are very welcome statements, and I am sure they augur well for Mr. Graham's further mission.

It is, therefore, with real confidence in the chances of Mr. Graham's success, that I recommend the adoption by the Security Council of the draft resolution which is now now before it.

75. Text of the Speech made by Mr. Gross (United States of America) in the Security Council Meeting No. 566 held on 10 November, 1951

Looking back at the last meeting of the Security Council on this subject of the India-Pakistan question [*564th meeting*], I think of it as a memorable one. It was memorable for the eloquence and wisdom with which the United Nations representative put his report before us. I too, regret that he is not able to be here today with us ; I understand he is confined to a hospital room and I am sure that we all wish him a speedy recovery.

Our last meeting on this subject was memorable also, I think, because the presence of Mr. Graham in this case is, in our view, in itself a fact of positive importance. The statement which Mr. Graham made to the Council at that meeting demonstrates that he approached his task with an open mind and only one desire—to be of the utmost service to the

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Security Council, whose insistent wish it is to see this question settled promptly and with justice. Mr. Graham has stated his belief that both parties now realize the vital importance of a peaceful settlement of this issue. However, both his report [*S/2375*] and his statement to the Security Council show his awareness of the difficulties to be surmounted before he will have succeeded in assisting the parties to effect the demilitarization of the State of Jammu and Kashmir in accordance with their undertakings. Such a result would, as he put it, give a lift to the spirits of people who are struggling to be free, and although he feels it is a possibility which is not to be excluded, at the same time he does not under-estimate the difficulties of arriving at t. So much is clear from Dr. Graham's report and statement.

It is impossible to believe that either the Government of India or of Pakistan underestimates the apprehensions with which all friends of the people of the Asian sub-continent view the protracted continuance of the dispute with which we are dealing. There is but one thought in the minds of those who have at heart the interests of these two great peoples: the removal of this inflammatory and dangerous source of friction on a basis which has been agreed to by the parties. Another positive fact in this case is that the leaders of India and Pakistan have made judicious and restrained statements in discussing with the United Nations representative the issues on which agreement has not yet been reached. As a result of Mr. Graham's work during the past three and a half months he has suggested that a new effort should be made to proceed with the plan of demilitarization and that a United Nations repreaentat ve—he modestly does not mention himself—should continue these efforts and report to the Security Council within six weeks. In short he asks for a little more time.

My Government is hopeful that the other members of the Security Council and the parties will agree that we are fortunate to have the skill and the faith of Mr. Graham and that we should pave the way for him to continue his efforts along the lines which he suggests in his report, and this is

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what the joint draft resolution [*S/2390*] is designed to do—to give him the support, the encouragement and the time. My Government feels that the proposals for demilitarization as set out by Mr. Graham form a solid basis upon which the parties can reach an agreement. The draft resolution itself does not, of course, deal with the details of the proposals themselves. It does endorse the principles underlying the proposals and the basis for a programme or, as Sir Gladwyn Jebb put it a few moments ago, the broad lines of the programme of demilitarization which Mr. Graham laid before the parties in their negotiations.

It is a hopeful fact that the parties, during the course of the discussions with Mr. Graham, have reaffirmed their determination not to resort to force and to adhere to peaceful procedures. They have also reaffirmed their determination to observe the cease-fire agreement and their acceptance of the principle of an accession of the state by a free and impartial plebiscite under the auspices of the United Nations. I think that these facts are dealt with property and with approval in the first paragraph of the operative part of the draft resolution. The apprehensions of the world concerning the present situation on the sub-continent of Asia, to which I have referred, underline the decisive importance of effecting demilitarization. Truly the gap between agreement to demilitarize and the actual accomplishment of demilitarization is the long gap between promise and performance, between success and failure.

The Security Council has repeatedly expressed concern also at the convening of a Constituent Assembly which might purport to decide the question of accession by some means other than a free and impartial plebiscite under the auspices of the United Nations. I confess that my Government is troubled at the press reports, if they are correct, of Sheikh Abdullah's address to the recently convened Constituent Assembly, in which he is reported to have made the point that this Assembly has sovereign status, and that the decision—and I quote the statement attributed to him—"has the irrevocable force of law."

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We will all recall that the representative of India stated to the Security Council on 1 March, 1951 [*533rd meeting*] that, so far as the Government of India is concerned, the Constituent Assembly is not intended to prejudice the issues before the Security Council or to come in its way. He went on to say on 29 March [*538th meeting*] that any opinion which the Constituent Assembly expresses will not bind the Government of India, nor prejudice the position of the Council. The members of the Security Council were gratified to hear these assurances repeated at our 548th meeting on 29 May, 1951, and I recall that it was during that same meeting that I had the occasion to express the concern of the United States Government regarding an earlier statement attributed to Sheikh Abdullah that the Constituent Assembly would purport to make a definitive decision on the question of accession.

These facts, therefore, lead me to restate what I have on behalf of my Government twice before observed to the Security Council, and most recently on 29 May, 1951, that so far as we view the matter any attempt to decide the issue without the consent of both parties would leave only a constant and explosive irritant in the relations between two governments, an irritant which might well prevent the bringing about of peace and security in South Asia.

On the other hand, it is reassuring that Prime Minister Nehru has recently been quoted as saying that India stands by its commitments to the Security Council, and as feeling that the United Nations representative has gone a long way towards success. The joint draft resolution [*S/2390*] correctly restates what has always been the view of the Security Council, that the accession of the State of Jammu and Kashmir should be determined by a free and impartial plebiscite under the auspices of the United Nations. It is goes without saying that, in our view, the Security Council would have no choice but to regard any attempts by the Constituent Assembly to settle this matter itself as null and ineffectual.

Since our last meeting, the peoples in India and Pakistan have, together with the peoples of the rest of the world,

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suffered a tragic event which deprived the world of a great leader and a wise statesman. Often in history the martyrdom of an individual sharpens the realization of the gravity of problems and thus draws people closer together. The President of the United States, in a message to the Government of Pakistan, said that the memory of the Liaquat Ali Khan will long remain a guide and inspiration to the Government and people of Pakistan.

We are all fortunate that the policies and principles for which the Liaquat stood are now in the distinguished custody of the new Prime Minister, Khwaja Nazimuddin. As the Prime Minister of India stated on 17 October,

> "All of us should now approach the large question of Indo-Pakistan relations in a new way and try to hush the voices of controversy and dispute and also try to find some way or path consistent with our self-respect and honour to establish real peace between India and Pakistan."

In concluding, I should like to say that my Government accepts the sober optimism of the United Nations representative. We entirely agree with his view that the settlement of this issue could have the most far-reaching results for the people of India and Pakistan as well as for the peoples of the world. In co-sponsoring with the United Kingdom the draft resolution before us, we suggest to the Security Council a simple and direct means of giving the United Nations representative a further opportunity to continue the practice of his art, because mediation is one of the greatest of the arts, and in my own country Mr. Graham is known as one of its most distinguished practitioners. The Government of the United States therefore recommends the draft resolution to the parties and to the Security Council.

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